MT LEGISLATIVE HISTORY

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Chapter 43 1979

Bill (H) 7 S _____ Original bill & hist. ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	JAN 9	✓ C	Hearing Date(s)	JAN 22	✓ C
	JAN 12	✓ C		JAN 29	✓ C
		C			C
		C			C
Date Out		C			C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

CHAPTER NO. 43

HOUSE BILL NO. 7

INTRODUCED BY MANUEL

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 4, 1979	Introduced and referred to Committee on Judiciary.
January 6, 1979	On motion, joint rule 6-6 suspended and sponsor's signature allowed to be added to Pre-Filed bill.
January 12, 1979	Committee recommend bill do pass as amended. Report adopted.
January 13, 1979	Printed and placed on members' desks.
January 15, 1979	Second Reading, do pass.
January 16, 1979	Considered correctly engrossed.
January 17, 1979	Third Reading, passed. Transmitted to Second House.

IN THE SENATE

January 18, 1979	Introduced and referred to Committee on Judiciary.
January 30, 1979	Committee recommend bill be concurred in as amended. Report adopted.
February 1, 1979	Second Reading, concurred in.
February 5, 1979	Third Reading, concurred in as amended.

IN THE HOUSE

February 6, 1979	Returned from Second House. Bill concurred in as amended.
February 7, 1979	Second Reading, amendments adopted.
February 8, 1979	Third Reading, amendments adopted.
	Sent to enrolling.
	Reported correctly enrolled.

House BILL NO. 7

INTRODUCED BY _____

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO PUBLIC UTILITIES AND COMMON CARRIERS; REPEALING SECTIONS 8-127 AND 72-220, R.C.M. 1947, AND SECTIONS 69-14-136 AND 69-14-403, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-1-102, MCA, is ~~amended~~ to read:

"69-1-102. Creation of public service commission. A public service commission is hereby created, whose duty it ~~shall--be~~ is to supervise and regulate the operations of ~~the~~ public utilities ~~hereinafter--named,~~ common carriers, railroads, and other regulated industries listed in this title. Such supervision and regulation shall be in conformity with ~~chapter--3~~ this title."

Section 2. Section 69-1-108, MCA, is amended to read:

"69-1-108. Secretary of commission. (1) The commission shall, immediately after its members have qualified, appoint a secretary~~,--who--shall--possess--the--same--qualifications--as members--of--said--commission,~~ to serve during the pleasure of the commission. The secretary shall be a qualified elector of the state.

(2) The secretary shall:

(a) keep a full and complete record of all proceedings of the commission;

(b) be the custodian of its records and file and preserve at the office of the commission all books, maps, documents, and papers entrusted to his care and be responsible to the commission for the same; and

(c) perform such other duties as the commission may prescribe."

Section 3. Section 69-1-113, MCA, is amended to read:

"69-1-113. ~~Suspension~~ Removal or suspension of commissioner. If any commissioner ~~shall--fail~~ fails to perform his duties as provided ~~for~~ in ~~chapter--37,--laws--of 1907~~ this title, he may be removed from office as provided ~~for~~ by 45-7-401. Upon complaint made and good cause shown, the governor ~~is--authorized--to~~ may suspend any commissioner ~~or--commissioners~~, and if, in his judgment, the exigencies of the case require, the governor ~~is--authorized--to~~ may appoint temporarily some competent person ~~or--persons~~ to perform the duties of ~~such~~ the suspended commissioner ~~or--commissioners~~ during the period of ~~such~~ the suspension."

Section 4. Section 69-2-202, MCA, is amended to read:

"69-2-202. Institution of and intervention in proceedings involving regulated companies. (1) The consumer counsel may institute proceedings before the commission

INTRODUCED BILL

against regulated companies.

(2) The consumer counsel may institute, intervene in, or otherwise participate in appropriate proceedings in the state and federal courts and administrative agencies in the name of and on behalf of the utility and transportation consuming public of the state of Montana or substantial elements thereof, including review of decisions rendered by or failure to act by the commission and applications for restraining orders pending the investigation of and decision upon a matter by the commission, pursuant to ~~27-19-202 or~~ 27-19-203."

Section 5. Section 69-3-110, MCA, is amended to read:

"69-3-110. Enforcement of public utility law. (1) The commission shall inquire into any neglect or violation of the laws of this state by any ~~such~~ public utility, as hereinbefore defined, doing business ~~therein~~ in this state or by the officers, agents, or employees thereof. The commission shall ~~have the power and it shall be its duty to~~ enforce the provisions of this chapter and report all violations thereof to the attorney general.

(2) All rates, fares, charges, classifications, and joint rates fixed by the commission shall be enforced and ~~shall be~~ are prima facie lawful from the date of the order until changed or modified by the commission or in pursuance of part 4. All ~~regulations~~ rules, practices, and services

prescribed by the commission shall be enforced and ~~action~~ enforcement actions shall be brought ~~for that purpose~~ pursuant to the provisions of part 4, ~~or~~ until the rules, practices, or services are changed or modified by the commission ~~itself~~ upon a satisfactory showing being made.

(3) Upon the request of the commission, it ~~shall be~~ is the duty of the attorney general or the prosecuting attorney of ~~the proper or~~ any county to aid in any ~~investigations, prosecutions~~ investigation, prosecution, hearing, or trial had under the provisions of this chapter and to institute and prosecute all ~~necessary~~ actions or proceedings necessary for the enforcement of this chapter.

(4) Any forfeiture or penalty herein provided shall be recovered and suit thereon shall be brought in the name of the state ~~of Montana~~ in the district court of any county having jurisdiction of the defendant. The attorney general ~~of Montana~~ shall be the counsel in any proceeding, investigation, hearing, or trial prosecuted or defended by the commission, as also shall any prosecuting attorney selected by ~~said~~ the commission or other special counsel furnished ~~said~~ the commission in any county where such action is pending.

(5) In addition to ~~all~~ the other remedies provided by this chapter for the prevention and punishment of any ~~and all violations~~ violation of the provisions thereof and all

orders of the commission, the commission may compel compliance with the provisions of this chapter and of the orders of the commission by proceedings in mandamus, by injunction, or by other civil remedies."

Section 6. Section 69-3-204, MCA, is amended to read:

"69-3-204. Fees to be charged by commission. (1) The public service commission shall, except as otherwise provided by law, require and receive fees before filing annual reports, schedules, and supplements of these and shall require and receive fees for copies of orders, documents, classifications, blank forms, and other instruments prepared by it or on file in its office, unless provided by law to be furnished free of charge, under the following schedule:

(a) filing annual reports, each.....$ 5.00;

(b) filing rate schedules, each.....$ 2.00;

~~(b)~~(c) classification for public utilities, each.....$ 1.50;

~~(c)~~(d) for blank forms of annual reports for utilities ..... cost.

(2) This section does not require or authorize the public service commission to collect fees for the filing of annual reports, schedules, and supplements of these which relate solely to interstate commerce."

Section 7. Section 69-3-209, MCA, is amended to read:

"69-3-209. Violations of public utility laws or orders. If any public utility ~~shall violate~~ violates any provision of this chapter, ~~shall do~~ does any act herein prohibited, or ~~shall fail~~ fails or ~~refuse~~ refuses to perform any duty enjoined upon it, ~~or upon failure of any public utility~~ fails to place in operation any rate or joint rate ~~or do any act herein prohibited, for which a penalty has not been provided,~~ or ~~shall fail, neglect, or refuse~~ fails, neglects, or refuses to obey any lawful requirement or order made by the commission or any court, then for every such violation, failure, or refusal, ~~such~~ the public utility ~~shall be~~ is subject to the penalty prescribed by 69-3-206."

Section 8. Section 69-3-301, MCA, is amended to read:

"69-3-301. Schedule of rates, tolls, and charges. (1) Every public utility shall file with the commission, within a time fixed by the commission, schedules which shall be open to public inspection, showing all rates, tolls, and charges which it has established and which are in force at the time for any service performed by it within the state or for any service in connection therewith or performed by any public utility controlled or operated by it. ~~The rates, tolls, and charges shown on such schedules shall not exceed the rates, tolls, and charges in force on March 4, 1913.~~ Every public utility shall file with and as a part of such schedule all rules that in any manner affect the rates

charged or to be charged for any service. When a schedule of joint rates or charges is or may be in force between two or more public utilities, such schedule shall in like manner be printed and filed with the commission.

(2) A copy of so much of ~~said~~ the schedule as the commission ~~shall deem~~ considers necessary for the use of the public shall be printed in plain type and kept on file in every station or office of ~~such~~ the public utility where payments are made by the consumers or users. Such copy shall be open to the public and in such form and place as to be readily accessible to the public and ~~as can be~~ conveniently inspected."

Section 9. Section 69-4-202, MCA, is amended to read:

"69-4-202. Regulation of construction by rural electrification associations. (1) All electrical construction conducted and to be operated by any rural electrification association and constructed and to be operated in pursuance of the authority of the rural electrification administration of the federal government, within the state of Montana, shall be in conformity with the rules and regulations set forth in the national electrical safety code approved by the American ~~engineering standards committee~~ national standards institute, as published by the ~~department of commerce of the United States~~ American institute of electrical and electronic engineers, and any

~~and all revisions~~ revision thereof as ~~the same~~ may exist from time to time; provided, however, that where Y-connected circuits with neutral conductors effectively grounded throughout their length are used, minimum vertical clearance of wires or neutral conductors over ground or rails shall be determined by the voltage between wires and ground, if such voltage does not exceed 15,000 volts.

(2) The provisions of the national electrical safety code, as designated in subsection (1), wherever the same ~~may be~~ are in conflict with or in any manner contravene the provisions of this part, shall be ~~deemed and~~ construed as superseding, amending, and modifying the provisions of this part ~~insofar as the provisions thereof conflict with the provisions of the national electrical safety code~~ to the extent of such conflict; provided, that the provisions of this section ~~shall~~ apply only to electrical construction conducted and operated in pursuance of the authority of the rural electrification administration of the federal government.

(3) Every person, firm, or corporation which ~~shall violate~~ violates any ~~provisions~~ provision of this section ~~shall be~~ is guilty of a misdemeanor."

Section 10. Section 69-4-204, MCA, is amended to read:

"69-4-204. ~~Repealing clause~~ Regulation by local government. ~~All acts or parts of acts and all ordinances or~~

~~parts of ordinances of cities and towns in the state in conflict with Chapter 171, Laws of 1917, are hereby repealed, and hereafter no ordinance in conflict with any provisions of Chapter 171, Laws of 1917, shall be enacted or passed in any city or town in the state~~ No ordinance in conflict with any provision of this part may be enacted by a municipality, and any such ordinance is void."

Section 11. Section 69-4-305, MCA, is amended to read:

"69-4-305. Effect on authority of public service commission. Nothing contained in this part shall vest any jurisdiction over any public utility in the governing body. The public service commission shall retain all jurisdiction now or hereafter conferred upon it by law."

Section 12. Section 69-5-106, MCA, is amended to read:

"69-5-106. Service to industrial or commercial premises. (1) An electric utility ~~shall have~~ has the right to furnish electric service to any industrial or commercial premises if the estimated connected load for full plant operation at such industrial or commercial premises will be 400 kilowatts or larger within 2 years from the date of initial service, provided, ~~however,~~ such electric utility can extend its lines to such industrial or commercial premises at less cost to the electric utility or the industrial or commercial customer than the electric cooperative cost. The estimated connected load shall be

determined from the plans and specifications prepared for construction of the premises or, if such estimate is not available, shall be determined by agreement of the electric supplier and the customer. The fact that actual connected load after 2 years from the date of initial service ~~exceeds or fails to equal~~ is less than 400 kilowatts ~~shall~~ does not affect the right of the electric supplier initially providing service to continue service to such premises.

(2) An independent consultant engineer agreeable to both electric suppliers or, in the event of failure of the electric suppliers to agree on a consultant engineer, ~~then~~ by an independent consultant engineer selected by the district court having jurisdiction, as provided in 69-5-110, shall determine which electric supplier can extend its lines to the consumer at the least ~~costs~~ cost. The ~~costs~~ cost of such engineering services shall be paid equally by the electric suppliers involved.

(3) No premises other than another such commercial or industrial premises shall be served from a line constructed under this section."

Section 13. Section 69-5-109, MCA, is amended to read:

"69-5-109. Special provisions for annexed areas. With respect to service in areas which are annexed to incorporated municipalities having a population in excess of 3,500 persons ~~on or after March 17, 1939~~, electric suppliers

~~shall~~ have rights and be are subject to restrictions as follows:

(1) Every electric supplier ~~shall have~~ has the right to serve all premises being served by it on the date of annexation.

(2) An electric cooperative ~~shall~~ does not have the right to serve any premises initially requiring service on or after the date of annexation. The restriction stated in this subsection does not apply to incorporated municipalities in which 95% or more of the premises ~~are~~ were served by an electric cooperative on February 1, 1971."

Section 14. Section 69-11-109, MCA, is amended to read:

"69-11-109. Provision for transportation of passengers and property for free or reduced rates. (1) No provisions of the laws of this state ~~shall~~ prevent any person, association, company, or corporation engaged as a common carrier of persons or property in this state from carrying, storing, or handling property free or at reduced rates for the United States, for state or municipal governments, or for charitable institutions; or property which is being transported to or from fairs and expositions for exhibit thereat; or cars used by the government of the United States or the state for the transportation of fish ~~for~~ and from carrying free or at reduced rates agents and employees

employed in such transportation; and nothing therein contained ~~shall prevent~~ prevents such person, association, company, or corporation from issuing free transportation or selling tickets at reduced rates to the ~~following~~ classes of persons ~~listed in 69-11-208~~:

~~(a) employees of the issuing road and the members of their families;~~

~~(b) officers and employees of other railroads and the members of their families upon the exchange of passes or tickets;~~

~~(c) doctors, nurses, and helpers being carried to wrecks;~~

~~(d) soldiers or sailors going to or coming from institutions for their keeping;~~

~~(e) ministers of religion and persons engaged in charitable or religious work and destitute or homeless persons being transported by charitable societies or at public expense;~~

~~(f) executive, judicial, or legislative officers of this state, including the members of the faculty of the different educational institutions of the state.~~

(2) When free transportation or a ticket at a reduced rate is issued to any ~~such~~ officer or any president or member of the faculty of any educational institution referred to in ~~subsection (1)(f)~~ 69-11-208(1)(f), it shall

only be issued upon the application of the secretary of state, and the transportation or ticket shall be delivered to the secretary of state for delivery to the person or persons applying therefor. The secretary of state shall keep record of all transportation and tickets at reduced rates so received and delivered by him. The state officer and the president and faculty of the state educational institutions, when traveling upon any free transportation, may not charge any mileage against the state, or if traveling upon a ticket sold at reduced fare, they may not charge mileage in excess of the cost of the ticket.

(3) The carrying free or at reduced rates of property or persons in any of the classes above specified shall be held to be a reasonable classification by ~~railroad companies~~ common carriers for such purposes and not to be unjust discrimination. The carriage and transportation by any ~~railroad company~~, common carrier at free or reduced rates, in any of the cases above specified ~~shall be held not to be~~ is not a violation of any of the provisions of the laws of Montana or and does not subject ~~said railroad company~~ the common carrier to any penalty therefor."

Section 15. Section 69-11-121, MCA, is amended to read:

"69-11-121. Detriment caused by carrier. (1) The detriment caused by the breach of a carrier's obligation to

accept freight, messages, or passengers is deemed to be the difference between the amount which he had a right to charge for the carriage and the amount which it would be necessary to pay for the same service when it ought to be performed.

(2) The detriment caused by the breach of a carrier's obligation to deliver freight, where he has not converted it to his own use, is deemed to be the value thereof at the place and on the day at which it should have been delivered, deducting the freightage to which he would have been entitled if he had completed the delivery.

(3) The detriment caused by a carrier's delay in the delivery of freight is deemed to be the depreciation in the intrinsic value of the freight during the delay and also the depreciation, if any, in the market value thereof, otherwise than by reason of a depreciation in its intrinsic value, at the place where it ought to have been delivered and between the day at which it ought to have been delivered and the day of its actual delivery.

(4) The damages prescribed by this section are exclusive of exemplary damages and interest, except where those are expressly mentioned. Notwithstanding the provisions of this section, no person can recover a greater amount in damages for the breach of an obligation than he could have gained by the full performance thereof on both sides, except ~~in the cases specified in 27-1-221 through~~

~~27-1-223, 27-1-322, 70-16-108, 70-27-207, and 70-27-208~~ as provided in 27-1-303."

Section 16. Section 69-11-208, MCA, is amended to read:

"69-11-208. Classes of persons who may receive free transportation. (1) The persons to whom free tickets, free passes, free transportation, and discriminating reduced rates may be issued, furnished, or given are the following:

(a) the officers, agents, employees, attorneys, physicians, and surgeons of such common carriers of passengers and the officers and employees of other common carriers upon the exchange of passes or tickets;

(b) the families of the persons included in subsection (1)(a);

(c) the general officers of any such common carriers;

(d) employees of sleeping car and express car companies and linemen of telegraph and telephone companies, railway mail service employees, post-office inspectors, customs inspectors, and immigration inspectors, newsboys and newsgirls on trains, and baggage agents;

(e) persons injured in wrecks and physicians and nurses attending such persons;

(f) passengers traveling with the object of providing relief in cases of railroad accident, general epidemic, pestilence, or other calamitous visitation;

(g) necessary caretakers of livestock, vegetables, and fruit, including return transportation to forwarding stations;

(h) the officers, agents, or regularly accredited representatives of labor organizations composed wholly of employees of railway companies;

(i) inmates of homes for the reform or rescue of the ~~vicious or unfortunate~~ disadvantaged, including those about to enter and those returning home after discharge, and boards of managers, including officers and superintendents, of such homes;

(j) superannuated and pensioned employees and members of their families and surviving spouses of such members;

(k) employees, crippled and disabled in the service of the common carrier of passengers;

(l) policemen and firefighters of any city, wearing the insignia of their office, within the limits of such city;

(m) ministers of religion, newspaper employees in exchange for advertising, traveling secretaries of Young Men's Christian Associations and Young Women's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work;

(n) indigent, destitute, and homeless persons, while

being transported by charitable societies or hospitals, and necessary agents and employees in such transportation;

(o) school children, to and from public or parochial schools;

(p) ~~the public service commission of Montana~~ soldiers or sailors going to or coming from institutions for their keeping;

~~(q) the state fire marshal;~~

~~(r)~~(q) ~~the state scale expert and his necessary employees while traveling on official duty~~ executive, judicial, or legislative officers of this state, including the members of the faculty of the different educational institutions of this state;

~~(s)~~(r) the furloughed employees of common carriers authorized by 69-11-207 to issue free transportation and members of their families;

~~(t)~~(s) persons who have become disabled or infirm in the service of a common carrier or members of families of persons who have become disabled or infirm in the service of any such common carrier;

~~(u)~~(t) families of persons killed and surviving spouses who have not remarried and minor children during minority of persons who died while in the service of any such common carrier;

~~(v)~~(u) witnesses attending any legal investigation in

which such carrier is interested;

~~(w)~~(v) the remains of persons who died while in the employment of a common carrier; and

~~(x)~~(w) ex-employees traveling for the purpose of entering the service of any such common carrier.

(2) The provisions of this section and 69-11-207 shall not be construed to prohibit the interchange of passes for the persons to whom free tickets, free passes, or free transportation may be furnished or given under the provisions of this section. Nothing in this section or 69-11-207 shall be construed to invalidate any existing contract between a street railway company and a city, where a condition of a franchise grant requires the furnishing of transportation to policemen, firefighters, and officers while in the performance of official duties."

Section 17. Section 69-11-421, MCA, is amended to read:

"69-11-421. Liability of inland carriers for loss. (1) Any common carrier, railroad, or transportation company subject to the provisions of 69-11-421 through 69-11-427, receiving property for transportation from a point in Montana to any other point in Montana, shall issue a receipt or bill of lading therefor and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or

transportation company to which such property may be delivered or over whose line or lines such property may pass within the state when transported on a through bill of lading. No contract, receipt, rule, or other limitation of any character whatsoever shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed.

(2) Except as provided in 69-11-422, any ~~such~~ common carrier, railroad, or transportation company ~~so~~ receiving property for transportation from a point in Montana to a point in Montana or any common carrier, railroad, or transportation company delivering ~~said~~ property so received and transported ~~shall be~~ is liable to the lawful holder of said receipt or bill of lading or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass within the state ~~of Montana~~ when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract or rule or in any tariff filed with the public service commission.

Any such limitation, without respect to the manner or form in which it is sought to be made, is ~~hereby declared to be~~ unlawful and void, except:

(a) an inherent defect, vice, or weakness, or a spontaneous action of the property itself;

(b) the act of a public enemy of the United States or of this state;

(c) the act of the law;

(d) an irresistible superhuman cause; ~~or~~

(e) the act or default of the shipper or owner; or

~~(f)~~ for natural shrinkage.

(3) Nothing in 69-11-421 through 69-11-426 ~~shall~~ ~~deprive~~ deprives any holder of such receipt or bill of lading of any remedy or right of action.

(4) The liability imposed by this section ~~shall~~ also ~~apply~~ applies in the case of property reconsigned or diverted in accordance with the applicable tariffs filed as provided in this part.

(5) A common carrier is liable, even in the cases excepted by ~~[the last section]~~ subsection (2), if his ordinary negligence exposes the property to the cause of the loss."

Section 18. Section 69-12-101, MCA, is amended to read:

"69-12-101. Definitions. Unless the context requires

otherwise, in this chapter the following definitions apply:

(1) "Between fixed termini" or "over a regular route" means the termini or route between or over which a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular departures from the termini or route.

(2) "Certificate" means the certificate of public convenience and necessity issued under this chapter.

(3) "Compensation" means the charge imposed on motor carriers for the use of the highways in this state by motor carriers under 69-12-421.

(4) "Corporation" means a corporation, company, association, or joint-stock association.

(5) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(6) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by any court, operating motor vehicles upon any public highway in this state for the transportation of persons or property for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking. The term includes any motor carrier serving the public in the

business of transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter.

(7) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled vehicles used for the transportation of property or persons over the public highways of the state ~~and any trailer, semitrailer, dolly, or other vehicle drawn thereby~~.

(8) "Person" means an individual, firm, or partnership.

(9) "Public highway" means a public street, road, highway, or way in this state.

(10) "Railroad" means the movement of cars on rails, regardless of the motive power used."

Section 19. Section 69-12-108, MCA, is amended to read:

"69-12-108. Violations. Any motor carrier subject to the provisions of ~~Chapter 184, Laws of 1931~~ this chapter, as amended, or, whenever any such motor carrier is a corporation, any director or officer thereof; any receiver, trustee, lessee, agent, or ~~persons~~ person acting for or employed by such corporation; any person, corporation, or association or officer, agent, or employee thereof; or any broker of property or officer, agent, or employee thereof who violates or fails to comply with or who procures, aids, or abets in the violation of any provision of ~~Chapter 184,~~

~~laws of 1931~~ this chapter, as amended, or who fails to obey, observe, or comply with any lawful order, decision, rule, direction, demand, or requirement of the commission or any part of the provisions thereof ~~shall~~ is:

(1) be subject to a civil penalty, to be collected and deposited to the general fund by the commission after notice and hearing, in an amount not less than $25 or more than $500 for the first offense and not less than $100 or more than $1,000 for each subsequent offense; or

(2) be subject, upon conviction in a justice's court, to a fine of not less than $25 or more than $500 for the first offense and not less than $100 or more than $1,000 for each subsequent offense."

Section 20. Section 69-12-203, MCA, is amended to read:

"69-12-203. Supervisor of motor carriers. (1) The commission shall appoint a supervisor of motor carriers who shall have general responsibility to ~~it~~ the commission for enforcement of the provisions of this chapter. The supervisor shall be either an attorney admitted to practice law in Montana or a person qualified by at least 5 years of suitable experience and training in appropriate phases of the motor carrier industry. He shall serve at the pleasure of the commission and at an annual salary to be set by the commission.

(2) The supervisor shall direct all enforcement activities in behalf of the commission, including the investigation and prosecution of violations of ~~Chapter 184, laws of 1931~~ this chapter, as amended, or the rules or orders prescribed thereunder by the commission.

(3) The supervisor and whatever field inspectors may be employed by the commission to assist him shall be deemed peace officers for the purpose of making arrests in connection with violations of ~~Chapter 184, laws of 1931~~ this chapter, as amended, and issuing summonses, accepting bail, and serving warrants of arrest. The supervisor and field inspectors are empowered to make reasonable inspections of cargoes carried by commercial motor vehicles and require production of manifests, bills of lading, leases, and other documents relating to the cargo, routing, or ownership of such vehicles."

Section 21. Section 69-14-101, MCA, is amended to read:

"69-14-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Paralleling" ~~shall be held to mean~~ means the situation where the main tracks of parallel lines of railroad or railway are not more than 2,000 feet apart when measured from center to center.

(2) ~~(c)~~ "Railroad" means a corporation, company, or

individual owning or operating a railroad in whole or in part in this state. The term also includes express companies and sleeping-car companies.

~~(b) "Railroad" shall be held to mean and include railroad companies, express companies, car companies, sleeping-car companies, freight-and-freight-line companies, and all common carriers.~~

(3) "Transportation" includes instrumentalities of shipment or carriage."

Section 22. Section 69-14-102, MCA, is amended to read:

"69-14-102. Application. ~~(1) Chapter 37, Laws of 1987,~~ applies to the transportation of passengers and property between points in this state and to the receiving, switching, delivering, storing, and handling of property and to charges connected therewith and applies to railroad companies, express companies, car companies, sleeping car companies, freight and freight line companies, and to any shipments of property made from one point in this state to another point in this state, whether the transportation of it is wholly in this state or partly in this state and partly in an adjoining state or states.

~~(2) Chapter 37, Laws of 1987,~~ This chapter applies to all persons, firms, or companies, incorporated or otherwise, that do business as common carriers on any of the lines of

railroad in this state."

Section 23. Section 69-14-103, MCA, is amended to read:

"69-14-103. Interpretation. ~~Chapter 37, Laws of 1987,~~ This chapter shall not have the effect ~~to release or waive~~ of releasing or waiving any right of action by the state or any person for any right, penalty, or forfeiture which may arise under any law of this state. All penalties accruing under this part ~~shall be~~ are cumulative to each other, and a suit for or recovery of one ~~shall~~ is not be a bar to the recovery of any other penalty."

Section 24. Section 69-14-112, MCA, is amended to read:

"69-14-112. Investigatory authority. (1) The commission shall investigate any alleged neglect or violation of the laws of the state by any railroad or other company above specified doing business therein or by the officers, agents, or employees thereof. The commission shall ~~also have the power and authority and it shall be its duty to~~ examine and inspect or cause to be examined and inspected, ~~under its authority,~~ all books, records, files, and papers of the persons and companies specified above, insofar as the same may be pertinent to any matter under investigation before ~~said~~ the commission, and ~~to~~ shall hear and take testimony in the progress of any inquiry or

investigation authorized by ~~Chapter 37, Laws of 1987~~ this chapter.

(2) The commission, or some members thereof to be deputed by it, shall investigate and make inquiry into every accident occurring in the operation of any railroad in this state resulting in death, injury to any person of such gravity as to require the attention of a physician or surgeon, or the destruction of property greater in value than $2,000. The testimony taken on any such hearing shall be transcribed and filed in the office of the commission."

Section 25. Section 69-14-113, MCA, is amended to read:

"69-14-113. Attendance and examination of witnesses. (1) The commission in making any examination or investigation provided for in ~~Chapter 37, Laws of 1987, shall have the power to~~ this chapter may issue subpoenas for the attendance of witnesses by such rules as it may prescribe. Each witness shall receive the sum of $3 per day, together with the sum of 5 cents per mile traveled by the nearest practicable route in going to and returning from the place of meeting of ~~said~~ the commission. No witness furnished with free transportation ~~shall~~ may receive mileage for the distance he may have traveled on such free transportation. No person ~~shall~~ may be excused from attending or testifying or producing any books, papers,

documents, or any thing or things, before any court or magistrate or commissioner or board, upon any investigation, proceeding, or trial under the provisions of ~~Chapter 37, Laws 1987,~~ this chapter or for any violation of any of them, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to convict him of a crime or subject him to a penalty or forfeiture. No person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may so testify or produce evidence, and no testimony or evidence so given or produced shall be received against him upon any civil or criminal proceeding, action, or investigation.

(2) (a) The process issued by ~~said~~ the commission shall be under seal and extend to all parts of the state. ~~Said~~ The commission shall have power to issue process in like manner as courts of record. Such process may be served by any person authorized to serve process of courts of record or by any person appointed by the commission for such purpose.

(b) In the event the process issued by the commission is a subpoena for the attendance of a witness and he ~~shall have failed, neglected, or refused~~ fails, neglects, or refuses to obey the same, the commission is hereby authorized to file a petition with any district court in the

state, setting up the facts and the necessity of having ~~such~~ the witness appear in ~~such~~ the trial. The court shall thereupon summarily direct that a subpoena be issued out of the court requiring the attendance of any person ~~or--persons~~ as a witness before the court. The commission ~~shall~~ may thereupon ~~have-the--power--and--authority--to~~ examine such witness before ~~said~~ the court, under oath, respecting any inquiry or investigation being made by ~~said~~ the commission, ~~under--and~~ pursuant to the provisions of ~~Chapter-37,-Laws-of-1907~~ this chapter. The court shall likewise, when any petition is filed stating the necessity therefor, order the production by any person or corporation, for examination in ~~said~~ the court, of any books, papers, records, or files necessary or pertinent to any inquiry or investigation then being made by ~~said~~ the commission."

Section 26. Section 69-14-115, MCA, is amended to read:

"69-14-115. Investigation, enforcement, and report concerning railroad safety laws. (1) ~~It-is-hereby-made-the-duty-of-the~~ The commission to shall:

(a) make inquiry into the observance by all railroads within this state of the laws of the United States and of Montana intended to safeguard the lives of the employees of persons or corporations engaged in operating the same;

(b) lay complaint before the proper ~~officer,~~ state or

federal officer, of any infraction of any of such laws; and

(c) prosecute before the proper court or tribunal any person guilty of violation of the penal provisions thereof.

(2) ~~Said~~ The commission shall in ~~its~~ the annual report required by 2-7-102 set out what effort it has made to carry out the provisions of this section, with the result thereof, and in detail what steps it has taken to ~~procure-to-be-prosecuted~~ prosecute any violations of any such acts of which it has secured information. A copy of this annual report shall be mailed to the secretary of the department of transportation."

Section 27. Section 69-14-131, MCA, is amended to read:

"69-14-131. Enforcement duties of commission. ~~It-is-hereby-made-the-duty-of-such~~ The commission ~~to~~ shall see that the provisions of ~~Chapter--37,--Laws--of-1907,~~ this chapter and all laws of this state concerning railroads are enforced and obeyed and that violations thereof are promptly prosecuted and penalties due the state therefor recovered and collected. ~~Said~~ The commission shall report all such violations, with the facts in its possession, to the attorney general or other officer charged with the enforcement of the laws and request him to institute the proper proceedings. All suits between the state and any railroad shall have precedence in all courts over all civil

causes, criminal business and original proceedings in the supreme court excepted."

Section 28. Section 69-14-132, MCA, is amended to read:

"69-14-132. Legal assistance for commission. The attorney general is the attorney of the commission, and the county attorney of every county in the state shall, on the request and at the direction of the attorney general, assist in all cases, proceedings, and investigations undertaken by the commission under this ~~law~~ chapter in his own county. However, the commission may employ special counsel, with the approval of the attorney general, to assist in any case, matter, proceeding, or investigation instituted under this ~~law~~ chapter. The attorney general, upon direction of the commission, and the county attorney of each county in this state, upon direction of the attorney general, shall institute and prosecute and appear and defend any action or proceeding arising under this ~~law~~ chapter. All suits and proceedings filed in any court of this state, under this ~~law~~ chapter shall have precedence over all other business in the court, except criminal business and original proceedings in the supreme court."

Section 29. Section 69-14-133, MCA, is amended to read:

"69-14-133. Collection and disposition of penalties

and forfeitures. ~~All~~ Unless otherwise provided, all penalties and forfeitures incurred, levied, and made under the provisions of ~~Chapter 37, Laws of 1987,~~ this chapter shall be collected by ~~said~~ the commission and paid over to the state treasurer and credited to the general fund. Should the commission fail or refuse to institute appropriate action for the recovery of any penalty or forfeiture provided for herein, for the space of 60 days after notice of the cause of complaint by ~~such~~ an aggrieved person or shipper, such person or shipper may institute and prosecute such action in the name of the state against such railroad, in the same manner as could the commission."

Section 30. Section 69-14-134, MCA, is amended to read:

"69-14-134. Court enforcement of commission actions. (1) The district court ~~shall have~~ has jurisdiction to enforce, by proper decree, injunction, or order, the rates, classifications, rulings, orders, and regulations made or established by the commission under the provisions of ~~Chapter 37, Laws of 1987; Chapter 136, Laws of 1989; and Chapter 185, Laws of 1913~~ this chapter. The proceeding therefor shall be by equitable action in the name of the state and shall be instituted by the attorney general or county attorney, whenever advised by the commission that any railroad, railway, or common carrier is violating or

refusing to comply with any such rule, order, rate, classification, or regulation made by the commission and applicable to such railroad, railway, or common carrier. Such proceedings shall have precedence over all other business in such courts, except criminal business.

(2) In any action the burden of proof shall rest upon the defendant, who must show by clear and satisfactory evidence that the rule, order, regulation, rate, or classification involved is unreasonable and unjust as to ~~them~~ it. If, in such action, it is the decision of the court that the rule, regulation, order, rate, or classification is not ~~so~~ unreasonable or unjust and that in refusing compliance therewith the railroad, railway, or common carrier is thereby failing or omitting the performance of any duty, debt, or obligation, the court shall decree a mandatory and perpetual injunction compelling obedience to and compliance with the rule, regulation, order, rate, or classification by the defendant and its officers, agents, servants, and employees and may grant such other relief as ~~may be deemed~~ is just and proper. Any violation of such decree ~~shall--render~~ renders the defendant and any officer, agent, servant, or employee of the defendant, who is in any manner instrumental in such violation, guilty of contempt, punishable by a fine not exceeding $1,000 for each offense or by imprisonment of the person guilty of contempt until he

~~shall~~ sufficiently ~~purge~~ purges himself therefrom. Such decree ~~shall continue and remain~~ remains in effect ~~and be in force~~ until the rule, regulation, order, rate, or classification shall be modified or vacated by the commission. Nothing contained herein shall be construed to deprive either party to such proceedings of the right to trial by jury, as provided by the seventh amendment to the constitution of the United States or as provided by the constitution of this state.

(3) An appeal shall lie to the supreme court from the decree in such action, and the cause shall have precedence over all other civil actions of a different nature pending in the supreme court except original proceedings in the supreme court."

Section 31. Section 69-14-135, MCA, is amended to read:

"69-14-135. General right to supreme court review. Appeals may be taken to the supreme court from the judgment of any district court in any action brought under the provisions of ~~Chapter 37, Laws of 1907, Chapter 136, Laws of 1909, and Chapter 105, Laws of 1913~~ this chapter. Such appeals ~~shall~~ have precedence over all other business, except criminal business and original proceedings in such court, and shall be heard and determined as are appeals in civil actions."

Section 32. Section 69-14-137, MCA, is amended to read:

"69-14-137. Violations. If any railroad or other common carrier ~~shall~~ willfully ~~violate~~ violates any provision of ~~Chapter 37, Laws of 1907~~ this chapter, ~~shall do~~ does any other act herein prohibited, or ~~shall refuse~~ refuses to perform any ~~and all~~ lawful orders emanating from ~~said~~ the commission relating to rates and charges or any other duty enjoined upon it, for which a penalty has not ~~herein~~ been provided, then for every such act ~~of~~ or violation it shall pay to the state a penalty of not more than $500."

Section 33. Section 69-14-202, MCA, is amended to read:

"69-14-202. Duty to furnish shipping and passenger facilities. (1) ~~It is hereby made the duty of every~~ Every person, corporation, ~~and~~ or association operating a railroad in the state ~~to~~ shall maintain and staff facilities for shipment and delivery of freight and ~~to~~ shall ship and deliver freight and accommodate passengers in at least one location, preferably the county seat, in each county through which the line of the railway passes and at any point upon the line of such railway where there is a city or town having a population, according to the last federal ~~decennial~~ census, of not less than 1,000; provided, however, that this

section shall not require the maintenance and staffing of such facilities in any county or at any city or town in which such facilities were not maintained and staffed on July 1, 1969.

(2) Nothing in this section ~~shall be construed to authorize~~ authorizes the discontinuance of any facility presently established in any city, town, or other location having a population of less than 1,000 without a hearing before the public service commission, as provided by law.

~~(3) Any person, corporation, or association which shall, for 60 days after written request of not less than 50 inhabitants of such platted townsite, fail to comply with the provisions of Chapter 26, Laws of 1985, shall upon conviction be fined not less than $10 or more than $100 for each day thereafter so long as the provisions of that chapter are not complied with.~~"

Section 34. Section 69-14-209, MCA, is amended to read:

"69-14-209. Issuance of passenger tickets. (1) Every railroad corporation must provide and, on being tendered the regular rates of fare, furnish a ticket to every person desiring a passage on its passenger cars, which entitles the purchaser to a ride and to the accommodations provided on ~~their~~ its cars from the depot or station where the same is purchased to any other depot or station on the line of its

road. Every such ticket entitles the holder thereof to ride on its passenger cars to the station or depot of destination or any intermediate station and from any intermediate station to the depot of destination designated in the ticket at any time within 6 months thereafter.

(2) Any corporation failing ~~so~~ to provide and furnish tickets or refusing the passage which the same calls for when sold must pay to the person ~~so~~ refused the sum of $200."

Section 35. Section 69-14-215, MCA, is amended to read:

"69-14-215. Issuance of bills of lading by railroad station agents -- penalty. (1) All railway companies operating in the state which do not permit bills of lading to be issued by ~~other~~ employees other than agents shall be required to have ~~said~~ bills of lading issued by the station agent at the nearest station where a station agent is regularly maintained in the direction toward which the shipment is destined. The conductor of the train which receives the shipment at its point of origin shall deliver to the agent at the nearest station at which an agent is maintained through which ~~said~~ the shipment moves, immediately upon the arrival of the train carrying ~~said~~ the shipment at ~~said~~ the agency station, all data necessary for the issuance of a bill of lading for ~~said~~ the shipment. The

agent shall immediately issue ~~said~~ the bill of lading and shall deliver the same to the shipper or his agent or shall, within 24 hours after the receipt of ~~said~~ the data from the conductor, for shipment of 20,000 pounds or over, deposit the bill of lading in a United States post office, addressed and registered or certified to the consignor of ~~said~~ the shipment or his agent or attorney to his proper post-office address. A bill of lading for shipments of less than 20,000 pounds ~~to~~ may be mailed without ~~registering~~ the use of registered or certified mail.

(2) Any railway company operating in Montana violating any provisions of this section ~~shall be~~ is guilty of a misdemeanor and liable to a fine of not less than $50 or more than $1,000."

Section 36. Section 69-14-232, MCA, is amended to read:

"69-14-232. Size and equipment of caboose. (1) Cabooses shall be at least 24 feet in length, exclusive of platforms, and shall be provided with a door in each end and with cupolas or bay windows, platforms, ~~guard rails~~ guardrails, grabirons, and steps for the safety of persons in alighting or getting on cabooses. Cabooses shall be of metal frame construction and be sufficiently insulated to eliminate track and other related noise above 85 decibels in any octave in the speech range. Other requirements for

cabooses are as follows:

(a) The trucks shall provide riding qualities at least equal to those of freight type trucks modified with elliptical or additional coil springs or other means of equal or greater efficiency and shall have at least two four-wheel trucks with standard steel wheels or their equivalent. Draft gears shall have a minimum travel of 2 1/2 inches and a minimum capacity of 18,000 foot-pounds and shall comply with Association of American ~~Railroad~~ Railroads Standard M-901 or its equivalent.

(b) Electric lighting of at least 40 foot-candles shall be provided for direct illumination of the caboose desk, reading areas, and lavatory facilities.

(c) A spotlight shall be provided on the rear of the caboose with sufficient candlepower to illuminate the track for a distance of at least 300 feet to the rear of the caboose during the hours of darkness.

(d) The caboose marker or markers shall be either reflectorized or capable of illumination when required.

(e) Only glass of the ~~safety-glass~~ safety-glass type shall be used in partitions, doors, windows, or wind deflectors.

(f) All seats and seat backs shall conform to the safety standards ~~designed~~ designated by the United States department of transportation in its "Federal Motor Vehicle

Safety Standards", Motor Vehicle Safety Standard No. 201. All edges and protrusions on seats and seat backs shall be rounded to prevent injury to employees.

(2) Any person, corporation, or company, operating any railroad or railway in this state, violating any of the provisions of ~~[the preceding section] shall be deemed~~ this section and 69-14-233 is guilty of a misdemeanor and upon conviction thereof shall be fined not less than $500 or more than $1,000 for each offense."

Section 37. Section 69-14-252, MCA, is amended to read:

"69-14-252. Accident reports. ~~It is hereby made the duty of every~~ Every railroad company operating any line of railroad within this state, shall promptly upon the ~~occurrence, or in connection with the operation of its line within the state,~~ of any accident ~~such as is~~ mentioned in 69-14-112(2), ~~to~~ report the same to the commission. In the report shall be stated the time and place of the accident, the names of the persons killed or injured, and the value of any property destroyed."

Section 38. Section 69-14-301, MCA, is amended to read:

"69-14-301. Commission powers related to ratemaking. (1) The commission shall adopt all necessary rates, charges, and regulations to govern and regulate freight and passenger

tariffs, to correct abuses, and to prevent unjust discrimination and intimidation in the rates of freight and passenger tariffs on the different railroads in this state and to make the same effective by enforcing the penalties prescribed in ~~Chapter 37, Laws of 1907~~ this chapter.

(2) The commission shall fairly and justly classify and subdivide all freight and merchandise of whatever character that may be transported over railroads of this state into such general and special classes or subdivisions as may be considered necessary or expedient.

(3) The commission may fix different rates for different railroads and for different lines under the same management or for different parts of the same lines if found necessary to do justice and may make rates for express companies different from the rates fixed for railroads. The commission shall also fix and establish for all or any connecting lines of railroad in this state reasonable joint rates of freight charges for the various classes of freight and cars that may pass over two or more lines of such railroads.

(4) The commission shall make and establish reasonable rates for the transportation of freight within the state and shall prescribe rates, tolls, and charges for all other ~~service~~ services performed by any railroad subject hereto."

Section 39. Section 69-14-303, MCA, is amended to

read:

"69-14-303. Prohibition on rate discrimination. (1) If any railroad subject hereto, directly or indirectly or by any special rate, rebate, drawback, or other device, charges, demands, or receives from any person, firm, or corporation a greater or ~~less~~ lesser compensation for any service rendered or to be rendered in the transportation of property subject to the provisions of ~~Chapter 37, Laws of 1907,~~ this chapter than that fixed by the commission for such service, such railroad ~~is guilty of intimidation and~~ shall forfeit and pay to the state not less than $500 or more than $2,000 for each offense. Nothing in this subsection prevents any railroad or railroad corporation from giving excursion rates to or from any point within or without the state.

(2) If any railroad subject to ~~Chapter 37, Laws of 1907,~~ this chapter or its agents or officers hereafter collects, charges, demands, or receives from any person, company, firm, or corporation a greater rate, charge, or compensation than that fixed and established by the commission for the transportation of freight, passengers, or cars or for the use of any car on the line of its railroad or any line operated by it or for receiving, forwarding, handling, or storing any such freight car or for any other service performed or to be performed by it, such railroad

and its agents and officers ~~are guilty of intimidation and~~ shall forfeit and pay to the state a sum not less than $500 or more than ~~$2,000~~.

~~(3) It is hereby declared to be unlawful for any ticket selling agent so authorized and licensed as provided in 69-14-211, or for any common carrier subject to the provisions of 69-14-211 through 69-14-214 to charge, demand, collect, or receive from or to sell, barter, transfer, or assign to any person, firm, company, corporation, or association any ticket of any class whatever entitling the purchaser or holder thereof to transportation by the common carrier issuing such ticket for a greater or less sum or price than is charged, demanded, collected, or received by such ticket selling agent or common carrier subject to the provisions of 69-14-211 through 69-14-214 for a similar ticket of the same class. Any person, ticket selling agent, or common carrier subject to the provisions of 69-14-211 through 69-14-214 who shall violate the provisions of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be fined in the sum not exceeding $1,000 for each offense.~~

~~(4)~~(3) (a) It is unlawful for any railroad subject to this title to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like ~~kind~~ kinds of property for a shorter distance than for

a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as through rate than the aggregate of the intermediate rates; provided, that upon application to the commission and after investigation, such carrier, in special cases, may be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property, and the commission may from time to time prescribe the extent to which such designated carriers may be relieved from the operation of the foregoing provisions of this subsection, but in exercising the authority conferred upon it in this proviso, the commission shall not permit the establishment of any charge to or from the more distant point that is not reasonably compensatory for the service performed.

(b) Violations of ~~this~~ subsection (3) shall be punished in accordance with 69-14-805."

Section 40. Section 69-14-309, MCA, is amended to read:

"69-14-309. Posting of rate schedule. Each railroad affected by the provisions of ~~chapter 37, Laws of 1907,~~ this chapter shall display, in a conspicuous place in each of its stations in this state, a schedule printed in plain, legible, English type showing all classifications and rates

fixed and established by the commission."

Section 41. Section 69-14-322, MCA, is amended to read:

"69-14-322. Actions to recover excess charges. (1) Any sum or amount of money paid to any railroad by any person or shipper in excess of the rates, tolls, or charges fixed and established by the commission for such service may be recovered from such railroad by the person or shipper in any action instituted and maintained in the district court of the county in which such payment was made. No contract or agreement, written or otherwise, between such person or shipper and the railroad shall be admissible in evidence for the purpose of showing a waiver of the right given by this section. No voluntary payment by any person or shipper of any such excess or overcharge to any railroad shall be or be held to be a waiver on the part of such person or ~~shippers~~ shipper of the right to sue and recover for such excess or overcharge as provided for in this section. If, upon the trial of such action, it shall satisfactorily appear to the court or jury that such overcharge was willfully made, the person or shipper bringing the action shall be awarded damages in treble the amount of such excess or overcharge, together with the costs and expenses of such action, including a reasonable attorney's fee, to be taxed and collected as other costs in the action.

(2) ~~(a) Such~~ An action ~~shall~~ under this section must be brought within 3 years from the date of such payment.

~~(b) All actions at law by carriers subject to this section for recovery of their charges or any part thereof shall be begun within 3 years from the time the cause of action accrues and not after.~~"

Section 42. Section 69-14-402, MCA, is amended to read:

"69-14-402. Lawsuit to determine reasonableness of commission actions. (1) Any railroad, shipper, or other interested person may bring an action in the district court of the county where the principal office or place of business of such railroad, shipper, or other interested person is situated, or in any county where any classification, rate, toll, charge, ~~regulation~~ rule, or order of the commission is applicable, against the commission as defendant, to determine whether or not any such classification, rate, toll, charge, ~~regulation~~ rule, or order made, fixed, or established by the commission under the provisions of ~~Chapter 37, Laws of 1907,~~ this chapter is just and reasonable.

(2) Until the final decision in any such action, the classification, rate, toll, charge, ~~regulation~~ rule, or order of the commission affecting rates or charges shall be ~~deemed~~ considered to be final and conclusive except as

herein otherwise provided. In any action, hearing, or proceeding in any court, the classifications, rates, tolls, charges, ~~regulations~~ rules, and orders made, fixed, and established by ~~said~~ the commission shall prima facie be ~~deemed to be~~ considered just, reasonable, and proper.

(3) ~~(c)~~ All costs and expenses incurred in the hearing, trial, or appeal of any action brought under this section ~~by a railroad~~ shall be fixed and assessed as may seem just and equitable to the court.

~~(b) Costs shall be awarded in all actions brought under the provisions of this section by a shipper or other interested person as in other civil causes.~~"

Section 43. Section 69-14-501, MCA, is amended to read:

"69-14-501. Organization of railroad corporation. (1) The persons named in the articles of incorporation or a majority of them shall be authorized to order books to be opened for receiving subscriptions to the capital stock of the railroad corporation, at such times and at such places as they may deem expedient, after having given at least 30 days' notice in a newspaper of general circulation in this state of the time and place of opening books.

(2) As soon as 5% ~~on~~ of the capital stock ~~shall be~~ is subscribed, they may give like notice for the stockholders to meet at such time and place within the state as they may

designate for the purpose of electing five or more directors who shall continue in office until the time fixed for the annual election, which time shall be within 6 months from the date when such directors were elected, and until their successors are elected and qualified. At the time and place appointed, directors shall be elected in the manner provided in ~~[15-405]~~ 35-1-506. The candidates for director receiving the highest number of votes shall be declared elected. The persons named in such articles or such of them as may be present shall be inspectors of such election and shall certify what persons are elected directors and ~~appoint~~ specify the time and place for holding their first meeting."

Section 44. Section 69-14-511, MCA, is amended to read:

"69-14-511. Authorization to consolidate railroad corporations. (1) Any two or more railroad corporations whose respective lines ~~not being parallel or competing lines~~, are wholly or partly within this state, whether chartered by or organized under the laws of the state or territory of Montana or of the United States or of any other state or territory, ~~when their respective lines of road or any branch thereof so connect within this state that they may operate together as one property~~, may consolidate their capital stock, franchises, and property and thereby become one corporation to be known by any name adopted by them,

which may be that of one of them, upon such terms and conditions as may be agreed upon by them, in the manner provided in 69-14-512.

(2) Before any railroad corporation organized under the laws of any other state or territory or of the United States shall be permitted to avail itself of the benefits of this section and 69-14-512, such corporation shall file with the secretary of state a true copy of its charter or articles of incorporation."

Section 45. Section 69-14-512, MCA, is amended to read:

"69-14-512. Procedure to consolidate. (1) Articles of agreement shall be entered into by ~~and--between~~ such corporations, under their respective corporate seals and the signatures of their respective presidents and secretaries, containing the terms and conditions of such consolidation and the mode of carrying the same into effect, including:

(a) the name of the corporation resulting from such consolidation;

(b) the amount of its capital stock and the number and amount of shares thereof;

(c) the manner of retiring the shares of the capital stock of the corporations so consolidated or of converting the same into or exchanging ~~it~~ them for the capital stock of such resultant corporation;

(d) the number which shall constitute the board of directors of such corporation and what officers it shall have;

(e) the persons who shall constitute the first board of directors and officers thereof, their ~~term~~ terms of office, and the manner in which their successors shall be elected, which shall be according to the provisions of ~~[15-405]~~ 69-14-501; and

(f) such other matters as ~~may-be-deemed~~ are considered necessary to perfect such consolidation and as may be agreed upon.

(2) Such articles of agreement shall, before the same shall be effectual, be assented to, approved, or ratified by the stockholders of the respective corporations so consolidated at a regular meeting of such stockholders or a special meeting thereof, duly called and held, by resolution adopted by a vote in favor thereof, in person or by proxy, of the holders of at least ~~three-fifths~~ a majority in amount of the outstanding capital stock of such corporations, respectively.

(3) A duplicate of such articles of agreement, together with a copy of the resolutions ~~so~~ adopted by the stockholders of such corporations assenting to, approving, or ratifying the same, certified under the corporate seal and the signature of the secretary and verified by a sworn

statement of the president and secretary of the ~~corporation~~ corporations stating that such resolution was duly adopted by the vote in favor thereof of the holders of ~~three-fifths~~ a majority in amount of the outstanding capital stock of the ~~corporation~~ corporations at a meeting of the stockholders thereof, duly held, shall be recorded in the office of the secretary of state. It shall be the duty of the secretary to record the same upon presentation for that purpose. Upon the filing thereof for record, as aforesaid, the corporation formed by such consolidation shall be a corporation by the corporate name mentioned in such articles of agreement and as such shall be perpetual and shall succeed to and have, own, possess, exercise, and enjoy all the powers, rights, franchises, privileges, immunities, and property of every name and nature possessed by the corporations so consolidated or to which they were entitled at the time of such consolidation and shall be entitled to have, own, hold, exercise, possess, and enjoy all the powers, rights, franchises, privileges, and immunities which may at any time appertain to railroad corporations under the general laws of this state. All railroads and branches thereof of the consolidated corporation are subject to taxation and to regulation and control by the laws of this state, in all respects the same as if constructed by corporations organized under the laws of this state."

Section 46. Section 69-14-513, MCA, is amended to read:

"69-14-513. Lease or purchase of other railroads. (1) Any railroad corporation ~~whose line is wholly or partly within this state or reaches the boundary line thereof~~, whether chartered by or organized under the laws of the state or territory of Montana, the United States, or any other state or territory, may lease or purchase the whole or any part of the railroad or line of railroad of any railroad corporation, constructed or unconstructed, together with all the rights, powers, immunities, privileges, franchises, and all other property or appurtenances thereto~~, provided, the railroad or line of railroad so leased or purchased is continuous of or connected with its own line and not a parallel or competing line. Any such railroad corporation, whether chartered by or organized under the laws of the state or territory of Montana, the United States, or any other state or territory, may take, purchase, hold, sell, and dispose of or guarantee the payment of the capital stock, bonds, and securities of any other railroad corporation whose line of railroad within this state is continuous of or connects with its own line~~. The railroad company of any other state of the United States which purchases or leases a railroad or any part thereof in this state:

(a) shall possess and may exercise and enjoy, as to the control, management, and operation of the road, all the rights, powers, privileges, and franchises possessed by railroad corporations organized under the laws of this state, including the exercise of the power of eminent domain; and

(b) shall establish and maintain an office or offices in this state at some point or points on its line at which legal process and notice may be served, as upon railroad corporations of this state.

(2) Any railroad company may sell or lease the whole or any part of its railroad or branches within this state, constructed or to be constructed, together with all property and rights, privileges, and franchises pertaining thereto, to any railroad company organized or existing pursuant to the laws of the United States, this state, or any other state or territory of the United States.

(3) All roads or branches thereof in this state, whether purchased or leased, shall be subject to taxation and to regulation and control by the laws of this state, in all respects the same as if constructed by corporations organized under the laws of this state.

~~(2)~~(4) Before any such lease or purchase shall be ~~effectual~~ effective, it shall be assented to or approved or ratified by the stockholders of each corporation by a vote

in favor thereof, at a general or special meeting of such stockholders, by the holders of ~~three-fifths~~ a majority in amount of all the outstanding capital stock of the company."

Section 47. Section 69-14-514, MCA, is amended to read:

"69-14-514. Interrailroad ~~agreements---and~~ business arrangements and out-of-state operations. (1) Any railroad company ~~now-or-hereafter~~ incorporated pursuant to the laws of this state, the United States, or any state or territory of the United States, may at any time, by means of subscription to the capital stock of any other railroad company or by the purchase of its stock or bonds or by guaranteeing its bonds or otherwise, aid such company in the construction of its railroad within or without this state and may take, purchase, hold, sell, and dispose of or guarantee the payment of the capital stock, bonds, and securities of any other railroad corporation whose line of railroad within this state is continuous of or connects with its own line.

(2) Any company owning or operating a railroad within this state may:

(a) extend the same into any other state or territory;

(b) build, buy, lease, or consolidate with any railroad or railroads in such other state or territory ~~or with-any-other-railroad-in-this-state~~;

(c) operate the same; and

(d) own such real estate and other property in such other state or territory as may be necessary or convenient in the operation of such road.

~~(3) Any railroad company may sell or lease the whole or any part of its railroad or branches within this state, constructed or to be constructed, together with all property and rights, privileges, and franchises pertaining thereto, to any railroad company organized or existing pursuant to the laws of the United States, this state, or any other state or territory of the United States.~~

~~(4) Any railroad company incorporated or existing under the laws of the United States or any state or territory of the United States may extend, construct, maintain, and operate its railroad or any portion or branch thereof into and through this state and may build branches from any point or such extension to any place or places within this state. The railroad company of any other state or territory of the United States which shall so purchase or lease a railroad or any part thereof in this state or shall extend or construct its road or any portion or branch thereof in this state shall possess and may exercise and enjoy as to the control, management, and operation of the road and as to the location, construction, and operation of any extension or branch thereof, all the rights, powers,~~

~~privileges, and franchises possessed by railroad corporations organized under the laws of this state, including the exercise of the power of eminent domain.~~

~~(5)~~(3) Such purchase, sale, consolidation with, or lease may be made or such aid furnished upon such terms or conditions as may be agreed upon by the directors or trustees of the respective companies, but the same shall be approved or ratified by persons holding or representing a majority in amount of the capital stock of each of such companies, respectively, at any annual stockholders' meeting or at a special meeting of the stockholders called for that purpose or by approval in writing of a majority in interest of the stockholders of each company respectively.

~~(6)~~(4) ~~Nothing in the foregoing provisions shall be held or construed as curtailing the right of this state or the counties through which any such road or roads may be located to levy and collect taxes upon the same and upon the rolling stock thereof, in conformity with the provisions of the laws of this state upon that subject. All roads or branches thereof in this state so consolidated with, purchased, leased, aided, or extended into the state shall be subject to taxation and to regulation and control by the laws of this state, in all respects the same as if constructed by corporations organized under the laws of this state. Any corporation of another state or territory or of~~

~~the United States, being the purchaser or lessee of a railroad within this state or extending its railroad or any portion thereof into or through this state, shall establish and maintain an office or offices in this state at some point or points on its line at which legal process and notice may be served, as upon railroad corporations of this state.~~ Before any railroad corporation organized under the laws of any other state or territory or of the United States shall be permitted to avail itself of the benefits of this section, such corporation shall file with the secretary of state a true copy of its charter or articles of incorporation."

Section 48. Section 69-14-532, MCA, is amended to read:

"69-14-532. Authority to plan, lay out, and construct rail lines. Every railroad corporation ~~has power to~~ may:

(1) cause such examination and surveys to be made as may be necessary to the selection of the most advantageous route for the railroad;

(2) lay out its road, not exceeding in width 100 feet on each side of its ~~center line~~ centerline, unless a greater width ~~be~~ is required for the purpose of excavation or embankment, and construct and maintain the same, with a single or double track and with such appendages and adjuncts as may be necessary for the convenient use of the same;

(3) construct ~~their~~ its road across, along, or upon any stream of water, watercourse, roadstead, bay, navigable stream, street, avenue, or highway or across any railway, canal, ditch, or flume which the route of its road intersects, crosses, or runs along, in such manner as to afford security for life and property; but the corporation shall restore the stream or watercourse, road, street, avenue, highway, railroad, canal, ditch, or flume thus intersected to its former state of usefulness, as near as ~~may be~~ possible, or so that the railroad shall not unnecessarily impair its usefulness or injure its franchise;

(4) erect and maintain all necessary and convenient buildings, stations, depots, fixtures, and machinery for the accommodation and use of ~~their~~ its passengers, freight, and business;

(5) change the line of its road, in whole or in part, whenever a majority of the directors so determine, as is provided in 69-14-534; but no such change ~~must~~ may vary the general route of such road, as contemplated in its articles of incorporation."

Section 49. Section 69-14-536, MCA, is amended to read:

"69-14-536. Extension of rail lines into Montana. (1) Any railroad corporation chartered by or organized under the laws of the United States or of any state or territory ~~whose~~

~~line--of-railroad-shall-reach-or-intersect-the-boundary-line of-this-state-at-any-point~~ may extend, construct, maintain, and operate its railroad into and through this state from ~~any-such-point-or-points~~ to any place ~~or-places~~ within the state and may build branches from any point on such extension or continuation of any such extension or branch. Before making such extension into the state or building any such branch road or any such continuation, ~~such~~ the corporation shall, by resolution of its board of directors, to be entered in the records of its proceedings, designate the general route of such proposed extension, branch, or continuation~~, in the manner provided in [15-100 and 15-109],~~ and file a copy of such record, certified by the president and secretary, in the office of the secretary of state, who shall record the same when presented for record. Thereupon such corporations shall have all the rights, powers, privileges, immunities, and franchises to make, maintain, and operate such extension and build, maintain, and operate such branch or continuation, including the right of eminent domain, which it would have had if it had been incorporated for such purposes under the general laws ~~of--the--state--or territory~~ of Montana. Any corporation of another state or of the United States extending its railroad or any portion thereof into or through this state:

(a) shall establish and maintain an office or offices

in this state at some point or points on its line at which legal process and notice may be served as upon railroad corporations of this state; and

(b) is subject to taxation and regulation and control by the laws of this state, in all respects the same as if the line were constructed by corporations organized under the laws of this state.

(2) Before any railroad corporation organized under the laws of any other state or territory or of the United States shall be permitted to avail itself of the benefits of this section, such corporation shall file with the secretary of state a true copy of its charter or articles of incorporation."

Section 50. Section 69-14-606, MCA, is amended to read:

"69-14-606. Role of public service commission with respect to crossings. (1) The commission ~~is--hereby--given full--power-to~~ may enforce the orders of any board of county commissioners for the construction of railroad crossings and ~~is--likewise--given--full--power--to~~ may pass upon the reasonableness of any such order ~~to~~ and modify, change, or annul the same.

(2) Whenever any railroad crossing has been ordered by the county commissioners, as herein provided, the railroad company may, within 30 days after the service of such order,

serve upon the commission a notice stating ~~why such~~ the order is considered unreasonable or unjust and ~~request~~ requesting that the commission hold a hearing for the purpose of determining whether or not the construction of such crossing should reasonably be required. The commission shall thereupon institute a hearing for ~~said~~ this purpose, and all interested parties shall be given reasonable notice and an opportunity to be heard. ~~Said~~ The commission may, after such hearing, either affirm, modify, or annul such order."

Section 51. Section 69-14-713, MCA, is amended to read:

"69-14-713. Violation of provisions dealing with injury to livestock. (1) Except as otherwise provided, every person who violates any of the provisions of 69-14-701 through 69-14-712 relating to livestock killed or injured by railroads is guilty of a misdemeanor.

(2) Any person violating any of the provisions of ~~69-14-709~~, 69-14-711, or 69-14-712 shall, upon conviction thereof, be punished by a fine of not less than $10 or more than $300 or by imprisonment in the county jail for a period of not less than 10 days or more than 60 days or by both such fine and imprisonment."

Section 52. Section 69-14-802, MCA, is amended to read:

"69-14-802. Structural details of platform. Each platform shall be not less than 12 feet wide and 32 feet long, extending 4 feet and 6 inches, or such height as shall be determined by the commission, above the rails of the track, with suitable approaches to and from such platform to admit of the driving of ~~loaded teams~~ vehicles thereon."

Section 53. Section 69-14-1001, MCA, is amended to read:

"69-14-1001. Protection of employees affected by closure of station or other facility. (1) Whenever any railroad, as defined in ~~69-14-101(2)(b)~~ 69-14-101, is granted the authority to close a railroad station or facility by order of the commission, ~~it shall be incumbent~~ on the commission to shall require employee protection. Before the commission may approve closure of a station or facility, it shall require from the railroad an agreement to protect employees affected by the closure by providing jobs equal in nature and pay to the job held by the employee for the 6 months prior to ~~such~~ the closure. The equal job and pay agreement must be in effect for a period of 4 years or, in the alternative, the number of years the employee has been employed prior to closure, whichever is shorter.

(2) Notwithstanding any other provisions of this section, an agreement pertaining to protection of the interests of affected employees may be entered into between

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the railroad and duly authorized representatives of the employees."

Section 54. Section 69-14-1003, MCA, is amended to read:

"69-14-1003. Railroad personnel as law officers. Every conductor, engineer, or other person in charge of the operation of cars, trains, or locomotives upon any railroad is, while so engaged or employed, ~~hereby~~ constituted a public executive officer of the class of peace officers and of the grade of a constable in each county wherein his train, cars, or locomotives may from time to time happen to be and ~~is-hereby-given~~ has the same authority as other peace officers to, with or without a warrant, arrest and prosecute persons ~~violating--any--provision-of-sections-1-and-2,-page 150,-Laws-of-1899~~ trespassing or illegally obtaining passage on the railroad. The ~~persons~~ railroad personnel mentioned herein shall not be entitled to receive fees for any arrest or prosecution which may be made or prosecuted under ~~sections--1-and-2,-page-150,-Laws-of-1899~~ this section. None of the ~~persons~~ railroad personnel herein named shall be authorized to hold said office or exercise its functions unless at the time ~~he-shall-be-a-citizen~~ they are citizens of the United States and ~~shall~~ have been ~~a-citizen~~ citizens of this state for at least 1 year next preceding ~~his~~ their exercising the functions thereof."

Section 55. Repealer. (1) Sections 8-127 and 72-220, R.C.M. 1947, are repealed.

(2) Sections 69-14-136 and 69-14-403, MCA, are repealed.

Section 56. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

HOUSE JUDICIARY COMMITTEE

46TH Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 4	Revise and clarify, relating to highways.	1/4	Marks	Tues 1/9	do pass	1/12
HB 5	revise & clarify, relating to livestock	1/4	Kvaalen	Tues 1/9	do pass	1/12
HB 6	revise the law relating to crimes.	1/4	Vincent	Tues 1/9	do pass	1/12
HB 7	revise & clarify, relating to public utilities & common carriers.	1/4	Manuel	Tues 1/9	do pass amended	1/12
HB 8	revise & clarify, relating to fish & game	1/4	Marks	Tues 1/9	do pass	1/12
HB 10	revise & clarify relating to state lands	1/4	Kvaalen	Weds 1/10	do pass-amended	1/12

JUDICIARY COMMITTEE
January 9, 1979

The meeting was called to order at 8 a.m. by Chairman Scully in room 436 of the Capitol Building on Tuesday, January 9. Representatives Seifert and Teague were excused, all other members were present.

Scheduled for hearing were House Bills 4, 5, 6, 7 and 8.

HOUSE BILL #5: Dave Cogley: Legislative Council I worked with the commissioner on this bill. In the process of recodifying we were also mandated to correct problems, such as outmoded wording, archaic language, laws out of date, spelling, etc. These are the clean-up bills for the codes. Mr. Cogley went through the bill, explaining the changes that were made and explained the green sheets included with the bill. He explained the changes and references to this act. They can now simply refer to the appropriate place in the code. He mentioned the change in wording in some areas. Such as the addition of lower jaw skin, in section 5, and explained the reasoning. He mentioned the change in section 6 concerning the license money, and that part of the money still goes to the county. The next two sections were a conglomerate and apply to manufactured dairy products law. On page 20, line 25 is the definition of person. Questions followed.

REPRESENTATIVE CONROY: This is a bill regarding the land laws. Will we now refer to the law about cattle inspection within 48 hours in here, or would that be in another bill.

DAVE COGLEY: Is there a problem with that law?

REPRESENTATIVE CONROY: No.

DAVE COGLEY: This is just one specific section that had problems.

REPRESENTATIVE KEEDY: Discussed title 45, relative to this bill.

DAVE COGLEY: I feel it was necessary to have a penalty. More discussion followed.

REPRESENTATIVE ROTH: On line 9, page 9, is this new language?

DAVE COGLEY: It is a little nicer way of stating what we want to say. He went on to explain the reasoning behind it.

There was no further discussion and the hearing closed on HB #5.

The hearing opened on HB #4.

DAVE COGLEY: This bill will revise and clarify the laws relating to highways. There were some other sections that were added. He went through the bill and explained the changes. He explained that it was in conflict with federal law and was brought into line. The U.S. codes were recodified. He went over Title 23 of the U.S. code and explained the Montana Traffic Safety Act.

JIM BECK: DEPARTMENT OF HIGHWAYS. This bill is perfectly satisfactory with me, and we support the bill.

REPRESENTATIVE KEMMIS: Is there some way we will catch a recodify by the federal government to take care of this, (the fact that if they should recodify and Montana did not, they would again be in conflict).

Dave stressed that they intended to keep track of such action.

REPRESENTATIVE EUDAILY: Shouldn't the section on snowmobiles be in the fish and game instead of here. It seems to me it should be covered there.

DAVE COGLEY: No, and he went on to explain the reasoning.

The hearing closed on House Bill #4.

HOUSE BILL #6: The hearing opened on House Bill #6.

JOAN MAYER: There are only two sections in this bill. We inadvertently changed the title and this will restore the wording the way it was before the 1977 session. Mostly the changes were in style and grammar, and the rest is the repealer. She explained that.

The hearing closed on House Bill #6.

HOUSE BILL #7: The hearing opened on House Bill #7 with Larry Weinberg stating that he was with the legislative council and he was responsible for the laws on public utilities and common carriers. He said this was the longest of the bills. This is a mass of very old laws. Becau of the length of the bill I will go through it and hit only the high points and you can stop me at any point if you have a questi but you should take the bill and study it yourself. During the recodification process we attempted to change the references so that everyone would know what we were talking about. If we were

nervous about a change we would not do it or else bracket it. He explained the section on page 5, lines 15 and 16 and mentioned that section 13 was deleted in 1939. On page 16, line 8 we changed the wording. The terminology is simply outdated. In some areas we deleted some lines and we deleted an entire reference in conflict with the federal government. He went on to explain the definition of railroad as defined in the bill, and that it is different from a common carrier. Title 69 may deserve an interim study. In some cases the laws are over a hundred years old and some updating would be appropriate. He explained the repealers.

PROPONENT: WILLIAM J. OPITZ
PUBLIC SERVICE COMMISSION — We support this bill entirely. However, I think it is just the tip of the iceberg.

J. C. WEINGARTNER: — I am just here observing.

REPRESENTATIVE KEYSER: — Will this definition on page 22 have any effect on truck or trip permits.

LARRY WEINBERG: — It shouldn't. They are covered by ICC. This will be closer to the definition of the ICC of a motor vehicle.

Discussion about soldiers, sailors and military personnel as included in the bill. In title 10 these were charged to military personnel.

REPRESENTATIVE KEMMIS: — On pages 24 and 25, is the inclusion of the word railroad in the definition a problem.

Mr. WEINBERG: — It is unsatisfactory. I feel a change is needed and a better fefinition could be forthcoming. We tried to limit the code bills as much as possible to cleanup.

REPRESENTATIVE UHDE: — On page 50, line 18, why the change of the 3/5 to majority. Discussion about this and why it was done.

Mr. WEINBERG: — Changing from the old laws, in resolving the conflict I held with the closer law, the 70 year old law rather than the 90.

LARRY HUSS: — I am representing the Motor Carriers Association and we reviewed this and feel most of the changes are beneficial.

Discussion about eliminating the word of in one sentence, whether it changed the meaning.

BILL OPITZ: There is no need to worry abo that section because we are introducing a bill to repeal that section. 69-802.

There was no further discussi and the hearing closed on House Bill #7.

HOUSE BILL #8: Larry Weinberg introduced the bill and said it is a cleanup bill for the fish and game. The act referred to was the initial licensing act. Sections 3 and 4 have been extensively rewritten. He discussed at length the changing of wording last session in the appeal for employees.

Representative Lory took over as chairman while Representat Scully left the hearing room.

Discussion about changes fro commission to department and the problems created during the 1977 session and other bills which changed department to commission.

Representative Scully returne and resumed duties as chairm

REPRESENTATIVE DAILY: In section 3 on page 3, how did the employees feel about this. What was the attitude.

LARRY WEINBERG: They felt some changes had t be made. He went on and sta that the deleted material is already in the employee greivance la Appeared on page 4.

REPRESENTATIVE EUDAILY: In section 1, page 1, asked for clarification about the attorney general and staff attorney, etc. It was stated that the already have a staff attorney.

Representative Scully expla how the law read, and that n staff attorney could file a misdemeanor, they would have to go to the Attorney General. Some discussion followed.

The hearing closed on HB #8 and since there was no furth business to come before the committee the hearing adjourned at 9:

JPC:mec

JOHN P. SCULLY, Chairman

JUDICIARY COMMITTEE
Executive session
Friday, January 12, 1979

The executive meeting of the House Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. in room 436 of the Capitol Building on Friday January 12. All members were present except Representatives Holmes and Seifert, excused. Representatives Teague and Lory came in late.

HOUSE BILL NO. 4: Representative Keyser moved "do pas The motion carried with the vote unanimous. Representative Keyser moved that the bill be placed on the consent calendar. The motion carried with the vote unanimous.

HOUSE BILL NO. 5: There was general discussion about page 8 (title 45) The question was raised whether it would apply.

Representative Kemmis moved to strike Section 7 in its entirety. Page 7, line 16, through page 8, line 4 and renumber subsequent sections. The motion failed.

Representative Lory moved "do pass" The motion carried with the vote unanimous. He then moved to place the bill on the consent calendar. The motion carried with the vote unanimous.

HOUSE BILL NO. 6: Representative Eudaily moved "do pa The motion carried with the vote unanimous. Representative Eudaily then moved to place the bill on the consent calendar. The motion carried with the vote unanimous.

The committee was recessed at 8:30 to hold the regular meeting.

8:55 a.m. (meeting resumed)

HOUSE BILL NO. 7: Representative Eudaily moved on Page 17, lines 5 and 6 to strike: "soldiers or sailors" and insert: "military personnel". The motion carried with the vote unanimous.

Representative Eudaily moved, on page 62, line 6, following: "admit" strike: "of". The motion carried with the vote unanimous.

Representative Holmes moved "do pass as amended". The motion carried with the vote unanimous. Representative Day moved to place on the consent calendar. The motion carried with the vote unanimous.

January 12, 1979

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration House Bill No. 7

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO PUBLIC UTILITIES AND COMMON CARRIERS; REPEALING SECTIONS 8-127 AND 72-220, R.C.M. 1947, AND SECTIONS 69-14-136 AND 69-14-403, MCA."

Respectfully report as follows: That House Bill No. 7,

Introduced bill, be amended as follows:

1. Page 17, lines 5 and 6.
Following: "Montana"
Strike: "soldiers or sailors"
Insert: "military personnel"

2. Page 62, line 6.
Following: "admit"
Strike: "of"

And As Amended Do Pass

~~BILL~~
~~BE PASS~~

STATE PUB. CO.
Helena, Mont.

John P. Scully, Chairman.

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Forty-Sixth LEGISLATIVE SESSION

COMMITTEE ON Judiciary - Senate

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB-104	1/15/79	1/18/79	1/25/79			1/24/79			
H.B-6	1/15/79	1/18/79	1/18/79					1/18/79 -	
HB-41	1/18/79	1/18/79	1/18/79					1/18/79 ✓	
SB-120	1/17/79	1/23/79	1/23/79	1/23/79					
SB-124	1/17/79	1/23/79	Tabled 1/26/79						
SB-129	1/17/79	1/24/79	Tabled 2/7/79						
SB-133	1/17/79	1/23/79	1/24/79		1/24/79				
SB-137	1/17/79	1/19/79	1/19/79			1/19/79			
SB-152	1/18/79	1/25-79	1/30/79			1/29/79			
SB-153	1/18/79	1/25/79	2/7/79			2/7/79			
SB-164	1/18/79	1/29/79	1/29/79			1/29/79			
SB-165	1/18/79	1/24/79	1/24/79			1/24/79			
HB-2	1/18/79	1/29/79	1/30/79					1/29/79 -	
HB-25	1/18/79	1/26/79	1/31/79					1/29/79 ✓	
HJR-2	1/18/79	1/26/79	1/26/79					1/26/79 -	
SB-12	1/19/79		Transferred 1/23/79						

Use a separate sheet for Senate

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 27, 1979

The seventeenth meeting of the Senate Judiciary Committee was called to order at 10:05 a.m. by Senator Everett R. Lensink in room 331 of the Capitol Building.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 149:

Senator Hazelbaker was not at the meeting and Senator Lensink explained the bill, which is an act to clarify the Montana Recall Act. He offered a copy of some amendments that the League of Women Voters felt should be included in this bill. (See Exhibit A)

Margaret Davis, representing the League of Women Voters said that they would only support this bill if these amendments or similar amendments were worked into this bill. She said that on page 2, line 6, because of Senate Bill 65, which makes a reference to this, that this would make a hardship on the clerks and recorders; that in section 2, that she does not feel that appointed official is clearly stated, and several other small amendments were offered.

Charlotte Edwards representing the county clerks and recorders questioned the definition of a qualified voter and suggested that in every case they be called "qualified registered elector".

There were no further proponents and no opponents. There were a few short questions from the committee and Senator Lensink requested Joan Mayer, attorney from the Legislative Council to work on the amendments proposed.

CONSIDERATION OF HOUSE BILL 7:

Representative Manuel was not able to attend the meeting as he was at another meeting so Larry Wineberg, staff attorney for the Legislative Council gave the explanation of this bill, which is an act to generally revise and clarify the laws relating to public utilities and common carriers.

Bill Opitz, executive director for the Public Service Commission, stated that they do support the bill and that their attorneys have agreed to changes in the bill.

There were no further proponents and no opponents.

There were numerous questions on this bill and the hearing on this bill was closed at 11:01 a.m.

Date 1/23/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Gill, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

Please register return to clerk

SENATE Judiciary COMMITTEE

BILL _____ VISITORS' REGISTER DATE 1/

Please note bill

NAME	REPRESENTING	BILL #	(check SUPPORT
Terry Murphy	Self	SB139	I
[illegible]	[illegible]	[illegible]	[illegible]
		SB 132	
[illegible] - Staff			
Mari Bell	self	SB132	
Linda Edwards, Pa. Fin. Co.	Self on behalf Fin. Dept.	SB 132	
Bill Murphy	self	SB 132	
[illegible]	(Lic. Vict. Mgrs.)		
Bill Hobbs	self	SB, 132	
John Bell	Clerks & Recorders	S. 132	
William Cook	MPSC	HB-7	X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

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VICE CHAIRMAN
CHET BLAYLOCK
PAT M. GOODOVER
DIANA S. DOWLING
EXECUTIVE DIRECTOR
CODE COMMISSIONER
ELEANOR ECK
ADMINISTRATIVE ASSISTANT
ROBERTA MOODY
DIRECTOR, LEGISLATIVE SERVICES

Montana Legislative Council
State Capitol
Helena, 59601
(406) 449-3064

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J.D. LYNCH
ROBERT L. MARKS
H. DAVID COGLEY
DIRECTOR, LEGAL SERVIC
ROBERT PERSON
DIRECTOR, RESEARCH

LC 0019

1979 Legislature
Code Commissioner Bill - Summary

House Bill No. 7

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO PUBLIC UTILITIES AND COMMON CARRIERS; REPEALING SECTION 8-127.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 69-1-102. The phrase "the public utilities hereinafter named" is changed to "public utilities, common carriers, railroads, and other regulated industries listed in this title" to reflect the fact that the various laws related to commission control of regulated industries are collected in one title. For a similar reason "chapter 3" is changed to "this title".

Section 2. 69-1-108. Subsection (1) is rewritten to make clear the qualifications to be secretary to the commission. Reference to the qualifications of commission members is unsatisfactory since each commission member must satisfy a district residency requirement.

Section 3. 69-1-113. "Chapter 37, Laws of 1907" is changed to "this title" to reflect the fact that a commissioner must perform all duties imposed upon him or face the possibility of a charge of official misconduct.

Section 4. 69-2-202. A reference to 27-19-202 is deleted as not applicable. The appropriate reference is 27-19-203.

Section 5. 69-3-110. This section is rewritten for clarity.

Section 17. 69-11-421. In subsection (5), "[the last section]" is changed to "subsection (2)" to correct an erroneous reference. The "last section" referred to was repealed and replaced by the material in subsection (2) of 69-11-421.

Section 18. 69-12-101. In the introductory phrase, "the following definitions apply" is added for uniform style. In subsection (7), reference to "any trailer, semi-trailer, dollie, or other vehicle drawn thereby" is deleted to conform to the decision of the Montana Supreme Court in State ex rel Sammons Trucking, Inc. v. Bollinger (544 P. 2d 1235).

Sections 19 and 20. 69-12-108 and 69-12-203. References to "Chapter 184, Laws of 1931" are changed to "this chapter" to update an obsolete reference to what appears to be the appropriate reference. In 69-12-203(1), "it" is changed to "the commission" for clarity. It should be noted that the highway patrol, under 44-1-1005, and the department of highways, under 61-10-141, are granted the same enforcement powers as are given to the commission by 69-12-203, hence any change in 69-12-203 affects the authority of the highway patrol and the department of highways.

Section 21. 69-14-101. In subsection (1), "shall be held to mean" is changed to "means the situation" for uniformity. The definition of railroad in subsection (2)(b) is deleted as superseded by the definition appearing in subsection (2)(a). General regulation of common carriers is found in chapters 11, 12, and 13. Chapter 14 contains the material related to railroads.

Section 22. 69-14-102. The first subsection is deleted as redundant with the second subsection. A reference to "Chapter 37, Laws of 1907" is changed to "this chapter" to update an obsolete reference.

Sections 23 through 25. 69-14-103, 69-14-112, and 69-14-113. "Chapter 37, Laws of 1907" is changed to "this chapter" to update an obsolete reference with what appears to be an appropriate reference.

Section 26. 69-14-115. In subsection (2), "its annual report" is changed to "the annual report required by 2-7-102". The annual report referred to originally was contained in 72-138, R.C.M. 1947, which was repealed. The new reference is to the report required of all state agencies.

Section 27. 69-14-131. "Chapter 37, Laws of 1907" is changed to "this chapter" to update an obsolete reference. The language of the last sentence is amended for consistency with 69-14-132.

Section 28. 69-14-132. "This law" is changed to "this chapter". "This law" referred to "Chapter 37, Laws of 1907", and this outdated reference is replaced.

Section 29. 69-14-133. "Chapter 37, Laws of 1907" is changed to "this chapter" to update an obsolete reference; and because of this change the phrase "Unless otherwise provided" is added.

Section 30. 69-14-134. In subsection (1), "Chapter 37, Laws of 1907; Chapter 136, Laws of 1909; and Chapter 105, Laws of 1913" is changed to "this chapter" to update obsolete references. In subsection (3) an exception for original proceedings in the supreme court is added for consistency with 69-14-131, 69-14-132, and 69-14-135.

Section 31. 69-14-135. "Chapter 37, Laws of 1907; Chapter 136, Laws of 1909; and Chapter 105, Laws of 1913" is changed to "this chapter" to update an obsolete reference. The term "or common carrier" is added because this term was used in a definition of railroad which is proposed for amendment (see section 21) and this section is a penalty section.

Section 32. 69-14-137. "Chapter 37, Laws of 1907" is changed to "this chapter" to update an obsolete reference. "Of" is changed to "or" to correct what appears to be a typographical error.

Section 33. 69-14-202. In subsection (1), the reference to "decennial" in connection with the federal census is dropped because the federal census will be taken every 5 years in the future. Subsection (3) is deleted as obsolete. The reference to platted township was amended out of 72-627, R.C.M. 1947, which appears as subsections (1) and (2).

Section 34. 69-14-209. "Their" is changed to "its" for grammar.

Section 35. 69-14-215. In subsection (1), "registered" is changed to "registered or certified" pursuant to 1-1-202 and the subsection is rewritten for clarity.

Section 36. 69-14-232. In subsection (1)(f), "designed" is changed to "designated" for better word usage. In subsection (2), "[the preceding section]" is changed to "this section and 69-14-233" to make clear what the reference should be. The "preceding section" was extensively amended.

Section 37. 69-14-252. This section is rewritten for clarity.

Section 38. 69-14-301. In subsection (1), "Chapter 37, Laws of 1907" is changed to "this chapter" to update obsolete reference.

Section 39. 69-14-303. In subsections (1) and (2), changed "Chapter 37, Laws of 1907" to "this chapter" to update obsolete references and deleted references to "intimidation" as obsolete under the new criminal code. Subsection (3) is deleted as redundant with 69-14-303(1). It should be noted that the provision left provides a greater penalty than the provision stricken.

Section 40. 69-14-309. "Chapter 37, Laws of 1907" is changed to "this chapter" to update obsolete reference.

Section 41. 69-14-322. In subsection (2)(a), the material was rewritten for clarity, and subsection (2)(b) was deleted as redundant with subsection (2)(a).

Section 42. 69-14-402. In subsection (1), the words "shipper, or other interested person" are added to reflect that 72-132 and 72-133, R.C.M. 1947, are being combined into this section, and "Chapter 37, Laws of 1907" is changed to "this chapter" to update obsolete reference. In subsections (1) and (2), "regulations" is changed to "rules" for uniform terminology. In subsection (3)(a), "by a railroad" is deleted because of combination of 72-132 and 72-133, R.C.M. 1947. In subsection (3)(b), the material is deleted for consistency with subsection (3)(a).

Section 43. 69-14-501. In subsection (2), "on" is changed to "of" to correct a typographical error and "[15-405]" is changed to "35-1-506" to replace the reference to 15-405, which was repealed by the MCA section which replaces the repealed section. The sentence "The candidate for director receiving the highest number of votes shall be declared elected." is added as it was contained in 15-405, R.C.M. 1947, and is not found in 35-1-506. "Appoint" is changed to "specify" for better word usage.

Sections 44 through 47. 69-14-511 through 69-14-514. These sections are extensively rewritten and parts of each have been interchanged and combined for consistency and clarity. A requirement of 3/5 approval of action is changed to majority approval to be consistent with 69-11-514. In 69-14-511(1), "to be known" is added for clarity. In 69-14-512(1)(e), "[15-405]" is changed to "69-14-501" to correct an internal reference to a repealed section.

Section 48. 69-14-532. "Their" is changed to "its" for grammar.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 29, 1979

The eighteenth meeting of the Senate Judiciary Committee was called to order by Senator Everett R. Lensink, in room 331 of the Capitol Building on the above date at 9:32 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF SENATE BILL 204:

Senator Aklestad gave the committee copies of a statement (See Exhibit A) from Rae V. Kalbfleisch, County Attorney from Toole County in connection with this bill, which is an act to permit a court to admit a defendant convicted of deliberate homicide to bail only if the defendant proves by a preponderance of the evidence that he is not a danger to others.

He introduced Tom Honzel, representing the Montana Association of County Attorneys, who gave a statement in support of this bill. He stated that he did not think this bill would be overburdensome to a defendant, and that some homicide cases may be done in a heat of passion over some family trouble and this person would not be a danger to society if he is let out of jail.

He introduced Mr. Marc Racicot, Prosecution Coordinator in the Law Enforcement Services Division of the Department of Justice, who gave a statement in support of this bill.

There were no further proponents and no opponents.

Senator Aklestad stated that he was sure the committee was aware of the problems of law and order in the state. He felt this bill at least would make a small step forward so victims aren't being victimized and criminals aren't being coddled.

Senator Towe asked how does this differ from the criteria which the judge uses now when he makes that decision. Mr. Honzel replied that right now it is up to the discretion of the judge and there is no criteria set out.

Senator Anderson commented that the burden of proof is on the defense attorney rather than on the prosecuting attorney and it should enlighten the judge a little more.

Senator Van Valkenburg questioned if he would object to the insertion of the word, "substantial" before danger in the last line. Mr. Honzel replied that "substantial danger" is again one of those terms that we can play around with, and he didn't know if it is defined properly and maybe a better word would be "present".

Senator Turnage suggested that we look at the statute as to a definition of deliberate homicide, which states "A person commits the offense of criminal homicide if he purposely, knowingly, or negligently causes the death of another human being." He suggested that the

raise the percent to 1/2 of 1 percent. He stated that this could be done on the election bill.

Senator Turnage wondered if the committee would be willing to amend SB 65 to this percentage. Senator Towe mentioned that the committee might not want to go to 1/4 of 1 percent in a statewide election. Senator Turnage said that it might be best to amend 1/2 of 1 percent at the district level.

Senator Turnage moved that the bill be tabled, with the idea we will operate on SB 65 on the percentages. The motion carried with Senator Towe and Senator Brown voting no.

DISPOSITION OF SENATE BILL 149:

The League of Women Voters offered some amendments to this bill. Senator Towe moved the amendments. The motion carried unanimously.

Senator Towe moved that the bill do pass, as amended. The motion passed unanimously.

DISPOSITION OF SENATE BILL 104:

Senator Brown stated that this bill must have a statement of intent. Senator Turnave moved the adoption of a statement of intent. The motion carried unanimously.

DISPOSITION OF SENATE BILL 152:

Senator Towe offered amendments to this bill. Senator Towe moved that these amendments be adopted. The motion carried unanimously.

Senator Towe moved that the bill do pass, as amended. The motion carried unanimously.

DISPOSITION OF SENATE BILL 164:

Joan Mayer from the Legislative Council offered some new amendments to this bill. Senator Brown moved adoption of the amendments. The motion carried unanimously. Senator Turnage moved that the bill do pass, as amended. The motion passed unanimously.

DISPOSITION OF HOUSE BILL 7:

Senator Towe moved on page 46, line 2, strike "of such payment" and insert, "the cause of action accrues". The motion carried unanimously. Senator Brown moved the bill do pass, as amended. The motion carried unanimously.

Date 4/22/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)			

Each Day Attach to Minutes.

STANDING COMMITTEE REPORT

January 30 19 79

MR. President

We, your committee on Judiciary

having had under consideration House Bill No. 7

Respectfully report as follows: That House Bill No. 7,

third reading bill, be amended as follows:

1. Page 46, line 2.
Following: "date"
Strike: "of such payment"
Insert: "the cause of action accrues"

And, as so amended,
DO PASS

STATE PUB. CO.
Helena, Mont.

Everett R. Lensink, Chairman.

HOUSE BILL NO. 7

INTRODUCED BY MANUEL

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO PUBLIC UTILITIES AND COMMON CARRIERS; REPEALING SECTIONS 8-127 AND 72-220, R.C.M. 1947, AND SECTIONS 69-14-136 AND 69-14-403, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-1-102, MCA, is amended to read:

"69-1-102. Creation of public service commission. A public service commission is hereby created, whose duty it ~~shall--be~~ is to supervise and regulate the operations of the public utilities ~~hereinafter---named,~~ common carriers, railroads, and other regulated industries listed in this title. Such supervision and regulation shall be in conformity with ~~chapter 3~~ this title."

Section 2. Section 69-1-108, MCA, is amended to read:

"69-1-108. Secretary of commission. (1) The commission shall, immediately after its members have qualified, appoint a secretary~~, who shall possess the same qualifications as members of said commission~~ to serve during the pleasure of the commission. The secretary shall be a qualified elector of the state.

(2) The secretary shall:

(a) keep a full and complete record of all proceedings of the commission;

(b) be the custodian of its records and file and preserve at the office of the commission all books, maps, documents, and papers entrusted to his care and be responsible to the commission for the same; and

(c) perform such other duties as the commission may prescribe."

Section 3. Section 69-1-113, MCA, is amended to read:

"69-1-113. ~~Suspension~~ Removal or suspension of commissioner. If any commissioner ~~shall--fail~~ fails to perform his duties as provided for in ~~chapter--37,--laws--of 1907~~ this title, he may be removed from office as provided for by 45-7-401. Upon complaint made and good cause shown, the governor ~~is authorized to~~ may suspend any commissioner ~~or commissioners~~, and if, in his judgment, the exigencies of the case require, the governor ~~is authorized to~~ may appoint temporarily some competent person ~~or persons~~ to perform the duties of ~~such~~ the suspended commissioner ~~or--commissioners~~ during the period of ~~such~~ the suspension."

Section 4. Section 69-2-202, MCA, is amended to read:

"69-2-202. Institution of and intervention in proceedings involving regulated companies. (1) The consumer counsel may institute proceedings before the commission

REFERENCE BILL

against regulated companies.

(2) The consumer counsel may institute, intervene in, or otherwise participate in appropriate proceedings in the state and federal courts and administrative agencies in the name of and on behalf of the utility and transportation consuming public of the state of Montana or substantial elements thereof, including review of decisions rendered by or failure to act by the commission and applications for restraining orders pending the investigation of and decision upon a matter by the commission, pursuant to ~~27-19-202--or~~ 27-19-203."

Section 5. Section 69-3-110, MCA, is amended to read:

"69-3-110. Enforcement of public utility law. (1) The commission shall inquire into any neglect or violation of the laws of this state by any such public utility, as hereinbefore defined, doing business ~~therein~~ in this state or by the officers, agents, or employees thereof. The commission shall ~~have-the-power-and-it-shall-be-its-duty-to~~ enforce the provisions of this chapter and report all violations thereof to the attorney general.

(2) All rates, fares, charges, classifications, and joint rates fixed by the commission shall be enforced and ~~shall--be~~ are prima facie lawful from the date of the order until changed or modified by the commission or in pursuance of part 4. All ~~regulations~~ rules, practices, and services

prescribed by the commission shall be enforced and ~~action~~ enforcement actions shall be brought ~~for--that-purpose,~~ pursuant to the provisions of part 4, ~~or~~ until the rules, practices, or services are changed or modified by the commission ~~itself~~ upon a satisfactory showing being made.

(3) Upon the request of the commission, it ~~shall-be~~ is the duty of the attorney general or the prosecuting attorney of ~~the-proper-or~~ any county to aid in any ~~investigations,~~ ~~prosecutions~~ investigation, prosecution, hearing, or trial had under the provisions of this chapter and to institute and prosecute all necessary actions or proceedings necessary for the enforcement of this chapter.

(4) Any forfeiture or penalty herein provided shall be recovered and suit thereon shall be brought in the name of the state ~~of-Montana~~ in the district court of any county having jurisdiction of the defendant. The attorney general ~~of--Montana~~ shall be the counsel in any proceeding investigation, hearing, or trial prosecuted or defended by the commission, as also shall any prosecuting attorney selected by ~~said~~ the commission or other special counsel furnished ~~said~~ the commission in any county where such action is pending.

(5) In addition to ~~all~~ the other remedies provided by this chapter for the prevention and punishment of any and ~~all violations~~ violation of the provisions thereof an 11

orders of the commission, the commission may compel compliance with the provisions of this chapter and of the orders of the commission by proceedings in mandamus, by injunction, or by other civil remedies."

Section 6. Section 69-3-204, MCA, is amended to read:

"69-3-204. Fees to be charged by commission. (1) The public service commission shall, except as otherwise provided by law, require and receive fees before filing annual reports, schedules, and supplements of these and shall require and receive fees for copies of orders, documents, classifications, blank forms, and other instruments prepared by it or on file in its office, unless provided by law to be furnished free of charge, under the following schedule:

(a) filing annual reports, each.....$ 5.00;

(b) filing rate schedules, each.....$ 2.00;

~~(b)~~(c) classification for public utilities, each.....$ 1.50;

~~(c)~~(d) for blank forms of annual reports for utilities ..... cost.

(2) This section does not require or authorize the public service commission to collect fees for the filing of annual reports, schedules, and supplements of these which relate solely to interstate commerce."

Section 7. Section 69-3-209, MCA, is amended to read:

"69-3-209. Violations of public utility laws or orders. If any public utility ~~shall violate~~ violates any provision of this chapter, ~~shall do~~ does any act herein prohibited, or ~~shall fail~~ fails or ~~refuse~~ refuses to perform any duty enjoined upon it, ~~or upon failure of any public utility~~ fails to place in operation any rate or joint rate ~~or do any act herein prohibited, for which a penalty has not been provided,~~ or ~~shall fail, neglect, or refuse~~ fails, neglects, or refuses to obey any lawful requirement or order made by the commission or any court, then for every such violation, failure, or refusal, ~~such~~ the public utility ~~shall be~~ is subject to the penalty prescribed by 69-3-206."

Section 8. Section 69-3-301, MCA, is amended to read:

"69-3-301. Schedule of rates, tolls, and charges. (1) Every public utility shall file with the commission, within a time fixed by the commission, schedules which shall be open to public inspection, showing all rates, tolls, and charges which it has established and which are in force at the time for any service performed by it within the state or for any service in connection therewith or performed by any public utility controlled or operated by it. ~~The rates, tolls, and charges shown on such schedules shall not exceed the rates, tolls, and charges in force on March 4, 1913.~~ Every public utility shall file with and as a part of such schedule all rules that in any manner affect the rates

charged or to be charged for any service. When a schedule of joint rates or charges is or may be in force between two or more public utilities, such schedule shall in like manner be printed and filed with the commission.

(2) A copy of so much of ~~said~~ the schedule as the commission ~~shall deem~~ considers necessary for the use of the public shall be printed in plain type and kept on file in every station or office of ~~such~~ the public utility where payments are made by the consumers or users. Such copy shall be open to the public and in such form and place as to be readily accessible to the public and ~~as can be~~ conveniently inspected."

Section 9. Section 69-4-202, MCA, is amended to read:

"69-4-202. Regulation of construction by rural electrification associations. (1) All electrical construction conducted and to be operated by any rural electrification association and constructed and to be operated in pursuance of the authority of the rural electrification administration of the federal government, within the state of Montana, shall be in conformity with the rules and regulations set forth in the national electrical safety code approved by the American ~~engineering standards committee~~ national standards institute, as published by the ~~department of commerce of the United States~~ American institute of electrical and electronic engineers, and any

~~and all revisions~~ revision thereof as ~~the same~~ may exist from time to time; provided, however, that where Y-connected circuits with neutral conductors effectively grounded throughout their length are used, minimum vertical clearance of wires or neutral conductors over ground or rails shall be determined by the voltage between wires and ground, if such voltage does not exceed 15,000 volts.

(2) The provisions of the national electrical safety code, as designated in subsection (1), wherever the same may be are in conflict with or in any manner contravene the provisions of this part, shall be ~~deemed and~~ construed as superseding, amending, and modifying the provisions of this part ~~insofar as the provisions thereof conflict with the provisions of the national electrical safety code~~ to the extent of such conflict; provided, that the provisions of this section ~~shall~~ apply only to electrical construction conducted and operated in pursuance of the authority of the rural electrification administration of the federal government.

(3) Every person, firm, or corporation which ~~shall violate~~ violates any ~~provisions~~ provision of this section ~~shall be~~ is guilty of a misdemeanor."

Section 10. Section 69-4-204, MCA, is amended to read:

"69-4-204. ~~Repealing clause~~ Regulation by local government. ~~All acts or parts of acts and all ordinances or~~

parts of ordinances of cities and towns in the state in conflict with Chapter 171, Laws of 1917, are hereby repealed, and hereafter no ordinance in conflict with any provisions of Chapter 171, Laws of 1917, shall be enacted or passed in any city or town in the state No ordinance in conflict with any provision of this part may be enacted by a municipality, and any such ordinance is void."

Section 11. Section 69-4-305, MCA, is amended to read:

"69-4-305. Effect on authority of public service commission. Nothing contained in this part shall vest any jurisdiction over any public utility in the governing body. The public service commission shall retain all jurisdiction now or hereafter conferred upon it by law."

Section 12. Section 69-5-106, MCA, is amended to read:

"69-5-106. Service to industrial or commercial premises. (1) An electric utility shall have has the right to furnish electric service to any industrial or commercial premises if the estimated connected load for full plant operation at such industrial or commercial premises will be 400 kilowatts or larger within 2 years from the date of initial service; provided, however, such electric utility can extend its lines to such industrial or commercial premises at less cost to the electric utility or the industrial or commercial customer than the electric cooperative cost. The estimated connected load shall be

determined from the plans and specifications prepared for construction of the premises or, if such estimate is not available, shall be determined by agreement of the electric supplier and the customer. The fact that actual connected load after 2 years from the date of initial service exceeds or fails to equal is less than 400 kilowatts shall does not affect the right of the electric supplier initially providing service to continue service to such premises.

(2) An independent consultant engineer agreeable to both electric suppliers or, in the event of failure of the electric suppliers to agree on a consultant engineer, then by an independent consultant engineer selected by the district court having jurisdiction, as provided in 69-5-110, shall determine which electric supplier can extend its lines to the consumer at the least costs cost. The costs cost of such engineering services shall be paid equally by the electric suppliers involved.

(3) No premises other than another such commercial or industrial premises shall be served from a line constructed under this section."

Section 13. Section 69-5-109, MCA, is amended to read:

"69-5-109. Special provisions for annexed areas. With respect to service in areas which are annexed to incorporated municipalities having a population in excess of 3,500 persons on or after March 17, 1939, electric suppliers

~~shall~~ have rights and be are subject to restrictions as follows:

(1) Every electric supplier ~~shall have~~ has the right to serve all premises being served by it on the date of annexation.

(2) An electric cooperative ~~shall~~ does not have the right to serve any premises initially requiring service on or after the date of annexation. The restriction stated in this subsection does not apply to incorporated municipalities in which 95% or more of the premises are were served by an electric cooperative on February 1, 1971."

Section 14. Section 69-11-109, MCA, is amended to read:

"69-11-109. Provision for transportation of passengers and property for free or reduced rates. (1) No provisions of the laws of this state ~~shall~~ prevent any person, association, company, or corporation engaged as a common carrier of persons or property in this state from carrying, storing, or handling property free or at reduced rates for the United States, for state or municipal governments, or for charitable institutions, or property which is being transported to or from fairs and expositions for exhibit thereat, or cars used by the government of the United States or the state for the transportation of fish, for and from carrying free or at reduced rates agents and employees

employed in such transportation, and nothing therein contained ~~shall prevent~~ prevents such person, association, company, or corporation from issuing free transportation or selling tickets at reduced rates to the ~~following~~ classes of persons~~:~~ listed in 69-11-208.

~~(a) employees of the issuing road and the members of their families;~~

~~(b) officers and employees of other railroads and the members of their families upon the exchange of passes or tickets;~~

~~(c) doctors, nurses, and helpers being carried to wrecks;~~

~~(d) soldiers or sailors going to or coming from institutions for their keeping;~~

~~(e) ministers of religion and persons engaged in charitable or religious work and destitute or homeless persons being transported by charitable societies or at public expense;~~

~~(f) executive, judicial, or legislative officers of this state, including the members of the faculty of the different educational institutions of the state.~~

(2) When free transportation or a ticket at a reduced rate is issued to any such officer or any president or member of the faculty of any educational institution referred to in ~~subsection (1)(f)~~ 69-11-208(1)(c), it

only be issued upon the application of the secretary of state, and the transportation or ticket shall be delivered to the secretary of state for delivery to the person or persons applying therefor. The secretary of state shall keep record of all transportation and tickets at reduced rates so received and delivered by him. The state officer and the president and faculty of the state educational institutions, when traveling upon any free transportation, may not charge any mileage against the state, or if traveling upon a ticket sold at reduced fare, they may not charge mileage in excess of the cost of the ticket.

(3) The carrying free or at reduced rates of property or persons in any of the classes above specified shall be held to be a reasonable classification by ~~railroad companies~~ common carriers for such purposes and not to be unjust discrimination. The carriage and transportation by any ~~railroad company~~, common carrier at free or reduced rates, in any of the cases above specified ~~shall be held not to be~~ is not a violation of any of the provisions of the laws of Montana ~~or~~ and does not subject ~~said railroad company~~ the common carrier to any penalty therefor."

Section 15. Section 69-11-121, MCA, is amended to read:

"69-11-121. Detriment caused by carrier. (1) The detriment caused by the breach of a carrier's obligation to

accept freight, messages, or passengers is deemed to be the difference between the amount which he had a right to charge for the carriage and the amount which it would be necessary to pay for the same service when it ought to be performed.

(2) The detriment caused by the breach of a carrier's obligation to deliver freight, where he has not converted it to his own use, is deemed to be the value thereof at the place and on the day at which it should have been delivered, deducting the freightage to which he would have been entitled if he had completed the delivery.

(3) The detriment caused by a carrier's delay in the delivery of freight is deemed to be the depreciation in the intrinsic value of the freight during the delay and also the depreciation, if any, in the market value thereof, otherwise than by reason of a depreciation in its intrinsic value, at the place where it ought to have been delivered and between the day at which it ought to have been delivered and the day of its actual delivery.

(4) The damages prescribed by this section are exclusive of exemplary damages and interest, except where those are expressly mentioned. Notwithstanding the provisions of this section, no person can recover a greater amount in damages for the breach of an obligation than he could have gained by the full performance thereof on both sides, except ~~in the cases specified in 27-1-221 through~~

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~~27-1-223, 27-1-322, 70-16-108, 70-27-207, and 70-27-208~~ as provided in 27-1-303."

Section 16. Section 69-11-208, MCA, is amended to read:

"69-11-208. Classes of persons who may receive free transportation. (1) The persons to whom free tickets, free passes, free transportation, and discriminating reduced rates may be issued, furnished, or given are the following:

(a) the officers, agents, employees, attorneys, physicians, and surgeons of such common carriers of passengers and the officers and employees of other common carriers upon the exchange of passes or tickets;

(b) the families of the persons included in subsection (1)(a);

(c) the general officers of any such common carriers;

(d) employees of sleeping car and express car companies and linemen of telegraph and telephone companies, railway mail service employees, post-office inspectors, customs inspectors, and immigration inspectors, newsboys and newsgirls on trains, and baggage agents;

(e) persons injured in wrecks and physicians and nurses attending such persons;

(f) passengers traveling with the object of providing relief in cases of railroad accident, general epidemic, pestilence, or other calamitous visitation;

(g) necessary caretakers of livestock, vegetables, and fruit, including return transportation to forwarding stations;

(h) the officers, agents, or regularly accredited representatives of labor organizations composed wholly of employees of railway companies;

(i) inmates of homes for the reform or rescue of the ~~vicious-or-unfortunate~~ disadvantaged, including those about to enter and those returning home after discharge, and boards of managers, including officers and superintendents, of such homes;

(j) superannuated and pensioned employees and members of their families and surviving spouses of such members;

(k) employees, crippled and disabled in the service of the common carrier of passengers;

(l) policemen and firefighters of any city, wearing the insignia of their office, within the limits of such city;

(m) ministers of religion, newspaper employees in exchange for advertising, traveling secretaries of Young Men's Christian Associations and Young Women's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work;

(n) indigent, destitute, and homeless persons; ie

being transported by charitable societies or hospitals, and necessary agents and employees in such transportation;

(o) school children, to and from public or parochial schools;

(p) ~~the public service commission of Montana~~ soldiers or sailors MILITARY PERSONNEL going to or coming from institutions for their keeping;

~~(q) the state fire marshal~~

~~(r)~~(q) ~~the state seed expert and his necessary employees while traveling on official duty~~ executive, judicial, or legislative officers of this state, including the members of the faculty of the different educational institutions of this state;

~~(s)~~(r) the furloughed employees of common carriers authorized by 69-11-207 to issue free transportation and members of their families;

~~(t)~~(s) persons who have become disabled or infirm in the service of a common carrier or members of families of persons who have become disabled or infirm in the service of any such common carrier;

~~(u)~~(t) families of persons killed and surviving spouses who have not remarried and minor children during minority of persons who died while in the service of any such common carrier;

~~(v)~~(u) witnesses attending any legal investigation in

which such carrier is interested;

~~(w)~~(v) the remains of persons who died while in the employment of a common carrier; and

~~(x)~~(w) ex-employees traveling for the purpose of entering the service of any such common carrier.

(2) The provisions of this section and 69-11-207 shall not be construed to prohibit the interchange of passes for the persons to whom free tickets, free passes, or free transportation may be furnished or given under the provisions of this section. Nothing in this section or 69-11-207 shall be construed to invalidate any existing contract between a street railway company and a city, where a condition of a franchise grant requires the furnishing of transportation to policemen, firefighters, and officers while in the performance of official duties."

Section 17. Section 69-11-421, MCA, is amended to read:

"69-11-421. Liability of inland carriers for loss. (1) Any common carrier, railroad, or transportation company subject to the provisions of 69-11-421 through 69-11-427, receiving property for transportation from a point in Montana to any other point in Montana, shall issue a receipt or bill of lading therefor and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or

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transportation company to which such property may be delivered or over whose line or lines such property may pass within the state when transported on a through bill of lading. No contract, receipt, rule, or other limitation of any character whatsoever shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed.

(2) Except as provided in 69-11-422, any ~~such~~ common carrier, railroad, or transportation company so receiving property for transportation from a point in Montana to a point in Montana or any common carrier, railroad, or transportation company delivering ~~said~~ property so received and transported ~~shall be~~ is liable to the lawful holder of said receipt or bill of lading or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass within the state ~~of---Montana~~ when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract or rule or in any tariff filed with the public service commission.

Any such limitation, without respect to the manner or form in which it is sought to be made, is ~~hereby declared to be~~ unlawful and void, except:

(a) an inherent defect, vice, or weakness, or a spontaneous action of the property itself;

(b) the act of a public enemy of the United States or of this state;

(c) the act of the law;

(d) an irresistible superhuman cause; or

(e) the act or default of the shipper or owner; or

(f) for natural shrinkage.

(3) Nothing in 69-11-421 through 69-11-426 ~~shall~~ ~~deprive~~ deprives any holder of such receipt or bill of lading of any remedy or right of action.

(4) The liability imposed by this section ~~shall~~ also ~~apply~~ applies in the case of property reconsigned or diverted in accordance with the applicable tariffs filed as provided in this part.

(5) A common carrier is liable, even in the cases excepted by ~~[the last section]~~ subsection (2), if his ordinary negligence exposes the property to the cause of the loss."

Section 18. Section 69-12-101, MCA, is amended to read:

"69-12-101. Definitions. Unless the context requires

otherwise, in this chapter the following definitions apply:

(1) "Between fixed termini" or "over a regular route" means the termini or route between or over which a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular departures from the termini or route.

(2) "Certificate" means the certificate of public convenience and necessity issued under this chapter.

(3) "Compensation" means the charge imposed on motor carriers for the use of the highways in this state by motor carriers under 69-12-421.

(4) "Corporation" means a corporation, company, association, or joint-stock association.

(5) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(6) "Motor carrier" means a person or corporation, or its lessees, trustees, or receivers appointed by any court, operating motor vehicles upon any public highway in this state for the transportation of persons or property for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking. The term includes any motor carrier serving the public in the

business of transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter.

(7) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled vehicles used for the transportation of property or persons over the public highways of the state ~~and any trailer, semitrailer, dolly, or other vehicle drawn thereby~~.

(8) "Person" means an individual, firm, or partnership.

(9) "Public highway" means a public street, road, highway, or way in this state.

(10) "Railroad" means the movement of cars on rails, regardless of the motive power used."

Section 19. Section 69-12-108, MCA, is amended to read:

"69-12-108. Violations. Any motor carrier subject to the provisions of ~~chapter 184, laws of 1931~~ this chapter, as amended, or, whenever any such motor carrier is a corporation, any director or officer thereof; any receiver, trustee, lessee, agent, or persons person acting for or employed by such corporation; any person, corporation, or association or officer, agent, or employee thereof; or any broker of property or officer, agent, or employee thereof who violates or fails to comply with or who procures, aids, or abets in the violation of any provision of ~~chapter 184,~~

~~laws of 1931~~ this chapter, as amended, or who fails to obey, observe, or comply with any lawful order, decision, rule, direction, demand, or requirement of the commission or any part of the provisions thereof ~~shall~~ is:

(1) be subject to a civil penalty, to be collected and deposited to the general fund by the commission after notice and hearing, in an amount not less than $25 or more than $500 for the first offense and not less than $100 or more than $1,000 for each subsequent offense; or

(2) be subject, upon conviction in a justice's court, to a fine of not less than $25 or more than $500 for the first offense and not less than $100 or more than $1,000 for each subsequent offense."

Section 20. Section 69-12-203, MCA, is amended to read:

"69-12-203. Supervisor of motor carriers. (1) The commission shall appoint a supervisor of motor carriers who shall have general responsibility to ~~it~~ the commission for enforcement of the provisions of this chapter. The supervisor shall be either an attorney admitted to practice law in Montana or a person qualified by at least 5 years of suitable experience and training in appropriate phases of the motor carrier industry. He shall serve at the pleasure of the commission and at an annual salary to be set by the commission.

(2) The supervisor shall direct all enforcement activities in behalf of the commission, including the investigation and prosecution of violations of ~~Chapter 184, Laws of 1931~~ this chapter, as amended, or the rules or orders prescribed thereunder by the commission.

(3) The supervisor and whatever field inspectors may be employed by the commission to assist him shall be deemed peace officers for the purpose of making arrests in connection with violations of ~~Chapter 184, Laws of 1931~~ this chapter, as amended, and issuing summonses, accepting bail, and serving warrants of arrest. The supervisor and field inspectors are empowered to make reasonable inspections of cargoes carried by commercial motor vehicles and require production of manifests, bills of lading, leases, and other documents relating to the cargo, routing, or ownership of such vehicles."

Section 21. Section 69-14-101, MCA, is amended to read:

"69-14-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Paralleling" ~~shall be held to mean~~ means the situation where the main tracks of parallel lines of railroad or railway are not more than 2,000 feet apart when measured from center to center.

(2) ~~(a)~~ "Railroad" means a corporation, company, or

individual owning or operating a railroad in whole or in part in this state. The term also includes express companies and sleeping-car companies.

~~(b)--"Railroad"-shall--be--held--to--mean--and--include railroad---companies,---express--companies,--car--companies, sleeping-car-companies,-freight-and-freight-line--companies, and-all-common-carriers.~~

(3) "Transportation" includes instrumentalities of shipment or carriage."

Section 22. Section 69-14-102, MCA, is amended to read:

"69-14-102. Application. ~~(1)-Chapter-37,-Laws-of-1907,~~ applies--to--the--transportation--of-passengers-and-property between--points--in--this--state--and--to---the---receiving, switching,-delivering,-storing,-and-handling-of-property-and to--charges--connected--therewith--and--applies--to-railroad companies,-express-companies,--car--companies,--sleeping-car companies,--freight--and--freight-line-companies,-and-to-any shipments-of-property-made-from-one-point-in-this--state--to another--point--in-this-state,-whether-the-transportation-of it-is-wholly-in-this-state--or--partly--in--this--state--and partly-in-an-adjoining-state-or-states.

~~(2)--Chapter--37,-Laws-of-1907,~~ This chapter applies to all persons, firms, or companies, incorporated or otherwise, that do business as common carriers on any of the lines of

railroad in this state."

Section 23. Section 69-14-103, MCA, is amended to read:

"69-14-103. Interpretation. ~~Chapter-37,-Laws-of--1907,~~ This chapter shall not have the effect ~~to-release-or-waive~~ of releasing or waiving any right of action by the state or any person for any right, penalty, or forfeiture which may arise under any law of this state. All penalties accruing under this part ~~shall~~ are cumulative to each other, and a suit for or recovery of one ~~shall~~ is not be a bar to the recovery of any other penalty."

Section 24. Section 69-14-112, MCA, is amended to read:

"69-14-112. Investigatory authority. (1) The commission shall investigate any alleged neglect or violation of the laws of the state by any railroad or other company above specified doing business therein or by the officers, agents, or employees thereof. The commission shall ~~also-have-the-power-and-authority-and-it-shall-be--its duty--to~~ *examine and inspect* or cause to be examined and inspected, ~~under-its-authority,~~ all books, records, files, and papers of the persons and companies specified above, insofar as the same may be pertinent to any matter under investigation before said the commission, and to shall hear and take testimony in the progress of any inquiry or

investigation authorized by ~~Chapter 37, Laws of 1987~~ this chapter.

(2) The commission, or some members thereof to be deputed by it, shall investigate and make inquiry into every accident occurring in the operation of any railroad in this state resulting in death, injury to any person of such gravity as to require the attention of a physician or surgeon, or the destruction of property greater in value than $2,000. The testimony taken on any such hearing shall be transcribed and filed in the office of the commission."

Section 25. Section 69-14-113, MCA, is amended to read:

"69-14-113. Attendance and examination of witnesses. (1) The commission in making any examination or investigation provided for in ~~Chapter 37, Laws of 1987, shall have the power to~~ this chapter may issue subpoenas for the attendance of witnesses by such rules as it may prescribe. Each witness shall receive the sum of $3 per day, together with the sum of 5 cents per mile traveled by the nearest practicable route in going to and returning from the place of meeting of ~~said~~ the commission. No witness furnished with free transportation ~~shall~~ may receive mileage for the distance he may have traveled on such free transportation. No person ~~shall~~ may be excused from attending or testifying or producing any books, papers,

documents, or any thing or things, before any court or magistrate or commissioner or board, upon any investigation, proceeding, or trial under the provisions of ~~Chapter 37, Laws of 1987,~~ this chapter or for any violation of any of them, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to convict him of a crime or subject him to a penalty or forfeiture. No person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may so testify or produce evidence, and no testimony or evidence so given or produced shall be received against him upon any civil or criminal proceeding, action, or investigation.

(2) (a) The process issued by ~~said~~ the commission shall be under seal and extend to all parts of the state. ~~Said~~ The commission shall have power to issue process in like manner as courts of record. Such process may be served by any person authorized to serve process of courts of record or by any person appointed by the commission for such purpose.

(b) In the event the process issued by the commission is a subpoena for the attendance of a witness and he ~~shall have failed, neglected, or refused~~ fails, neglects, or refuses to obey the same, the commission is hereby authorized to file a petition with any district court in the

state, setting up the facts and the necessity of having ~~such~~ the witness appear in ~~such~~ the trial. The court shall thereupon summarily direct that a subpoena be issued out of the court requiring the attendance of any person ~~or--persons~~ as a witness before the court. The commission ~~shall~~ may thereupon ~~have-the--power--and--authority--to~~ examine such witness before ~~said~~ the court, under oath, respecting any inquiry or investigation being made by ~~said~~ the commission, ~~under--and~~ pursuant to the provisions of ~~Chapter-37,-Laws-of 1907~~ this chapter. The court shall likewise, when any petition is filed stating the necessity therefor, order the production by any person or corporation, for examination in ~~said~~ the court, of any books, papers, records, or files necessary or pertinent to any inquiry or investigation then being made by ~~said~~ the commission."

Section 26. Section 69-14-115, MCA, is amended to read:

"69-14-115. Investigation, enforcement, and report concerning railroad safety laws. (1) ~~It-is-hereby-made-the duty-of-the~~ The commission ~~to~~ shall:

(a) make inquiry into the observance by all railroads within this state of the laws of the United States and of Montana intended to safeguard the lives of the employees of persons or corporations engaged in operating the same;

(b) lay complaint before the proper ~~officer,~~ state or

federal officer, of any infraction of any of such laws; and

(c) prosecute before the proper court or tribunal any person guilty of violation of the penal provisions thereof.

(2) ~~Said~~ The commission shall in ~~its~~ the annual report required by 2-7-102 set out what effort it has made to carry out the provisions of this section, with the result thereof, and in detail what steps it has taken to ~~procure-to-be prosecuted~~ prosecute any violations of any such acts of which it has secured information. A copy of this annual report shall be mailed to the secretary of the department of transportation."

Section 27. Section 69-14-131, MCA, is amended to read:

"69-14-131. Enforcement duties of commission. ~~It-is hereby-made-the-duty-of-such~~ The commission to shall see that the provisions of ~~Chapter--37,--Laws--of-1907,~~ this chapter and all laws of this state concerning railroads are enforced and obeyed and that violations thereof are promptly prosecuted and penalties due the state therefor recovered and collected. ~~Said~~ The commission shall report all such violations, with the facts in its possession, to the attorney general or other officer charged with the enforcement of the laws and request him to institute the proper proceedings. All suits between the state and any railroad shall have precedence in all courts over all civil

causes, criminal business and original proceedings in the supreme court excepted."

Section 28. Section 69-14-132, MCA, is amended to read:

"69-14-132. Legal assistance for commission. The attorney general is the attorney of the commission, and the county attorney of every county in the state shall, on the request and at the direction of the attorney general, assist in all cases, proceedings, and investigations undertaken by the commission under this ~~law~~ chapter in his own county. However, the commission may employ special counsel, with the approval of the attorney general, to assist in any case, matter, proceeding, or investigation instituted under this ~~law~~ chapter. The attorney general, upon direction of the commission, and the county attorney of each county in this state, upon direction of the attorney general, shall institute and prosecute and appear and defend any action or proceeding arising under this ~~law~~ chapter. All suits and proceedings filed in any court of this state, under this ~~law~~ chapter shall have precedence over all other business in the court, except criminal business and original proceedings in the supreme court."

Section 29. Section 69-14-133, MCA, is amended to read:

"69-14-133. Collection and disposition of penalties

and forfeitures. ~~All~~ Unless otherwise provided, all penalties and forfeitures incurred, levied, and made under the provisions of ~~Chapter--37,--Laws--of--1907,~~ this chapter shall be collected by ~~said~~ the commission and paid over to the state treasurer and credited to the general fund. Should the commission fail or refuse to institute appropriate action for the recovery of any penalty or forfeiture provided for herein, for the space of 60 days after notice of the cause of complaint by ~~such~~ an aggrieved person or shipper, such person or shipper may institute and prosecute such action in the name of the state against such railroad, in the same manner as could the commission."

Section 30. Section 69-14-134, MCA, is amended to read:

"69-14-134. Court enforcement of commission actions. (1) The district court ~~shall--have~~ has jurisdiction to enforce, by proper decree, injunction, or order, the rates, classifications, rulings, orders, and regulations made or established by the commission under the provisions of ~~Chapter--37,--Laws--of--1907;--Chapter--136,--Laws--of--1909;--and Chapter--105,--Laws--of--1913~~ this chapter. The proceeding therefor shall be by equitable action in the name of the state and shall be instituted by the attorney general or county attorney, whenever advised by the commission that any railroad, railway, or common carrier is violating or

refusing to comply with any such rule, order, rate, classification, or regulation made by the commission and applicable to such railroad, railway, or common carrier. Such proceedings shall have precedence over all other business in such courts, except criminal business.

(2) In any action the burden of proof shall rest upon the defendant, who must show by clear and satisfactory evidence that the rule, order, regulation, rate, or classification involved is unreasonable and unjust as to ~~them~~ it. If, in such action, it is the decision of the court that the rule, regulation, order, rate, or classification is not so unreasonable or unjust and that in refusing compliance therewith the railroad, railway, or common carrier is thereby failing or omitting the performance of any duty, debt, or obligation, the court shall decree a mandatory and perpetual injunction compelling obedience to and compliance with the rule, regulation, order, rate, or classification by the defendant and its officers, agents, servants, and employees and may grant such other relief as ~~may be deemed~~ is just and proper. Any violation of such decree ~~shall render~~ renders the defendant and any officer, agent, servant, or employee of the defendant, who is in any manner instrumental in such violation, guilty of contempt, punishable by a fine not exceeding $1,000 for each offense or by imprisonment of the person guilty of contempt until he

~~shall~~ sufficiently purge purges himself therefrom. Such decree ~~shall continue and remain~~ remains in effect ~~and be in~~ force until the rule, regulation, order, rate, or classification shall be modified or vacated by the commission. Nothing contained herein shall be construed to deprive either party to such proceedings of the right to trial by jury, as provided by the seventh amendment to the constitution of the United States or as provided by the constitution of this state.

(3) An appeal shall lie to the supreme court from the decree in such action, and the cause shall have precedence over all other civil actions of a different nature pending in the supreme court except original proceedings in the supreme court."

Section 31. Section 69-14-135, MCA, is amended to read:

"69-14-135. General right to supreme court review. Appeals may be taken to the supreme court from the judgment of any district court in any action brought under the provisions of ~~Chapter 37, Laws of 1907, Chapter 136, Laws of 1909, and Chapter 105, Laws of 1913~~ this chapter. Such appeals ~~shall~~ have precedence over all other business, except criminal business and original proceedings in such court, and shall be heard and determined as are appeals in civil actions."

Section 32. Section 69-14-137, MCA, is amended to read:

"69-14-137. Violations. If any railroad ~~or other common carrier shall~~ willfully ~~violate~~ violates any provision of ~~Chapter 37, Laws of 1907~~ this chapter, ~~shall do~~ does any other act herein prohibited, or ~~shall refuse~~ refuses to perform any ~~and all~~ lawful orders emanating from ~~said~~ the commission relating to rates and charges or any other duty enjoined upon it, for which a penalty has not ~~herein~~ been provided, then for every such act of or violation it shall pay to the state a penalty of not more than $500."

Section 33. Section 69-14-202, MCA, is amended to read:

"69-14-202. Duty to furnish shipping and passenger facilities. (1) ~~It is hereby made the duty of every~~ Every person, corporation, ~~and~~ or association operating a railroad in the state to shall maintain and staff facilities for shipment and delivery of freight and ~~to~~ shall ship and deliver freight and accommodate passengers in at least one location, preferably the county seat, in each county through which the line of the railway passes and at any point upon the line of such railway where there is a city or town having a population, according to the last federal ~~decennial~~ census, of not less than 1,000; provided, however, that this

section shall not require the maintenance and staffing of such facilities in any county or at any city or town in which such facilities were not maintained and staffed on July 1, 1969.

(2) Nothing in this section ~~shall be construed to authorize~~ authorizes the discontinuance of any facility presently established in any city, town, or other location having a population of less than 1,000 without a hearing before the public service commission, as provided by law.

~~(3) Any person, corporation, or association which shall, for 60 days after written request of not less than 50 inhabitants of such platted townsite, fail to comply with the provisions of Chapter 26, Laws of 1905, shall upon conviction be fined not less than $10 or more than $100 for each day thereafter, so long as the provisions of that chapter are not complied with.~~"

Section 34. Section 69-14-209, MCA, is amended to read:

"69-14-209. Issuance of passenger tickets. (1) Every railroad corporation must provide and, on being tendered the regular rates of fare, furnish a ticket to every person desiring a passage on its passenger cars, which entitles the purchaser to a ride and to the accommodations provided on ~~their~~ its cars from the depot or station where the same is purchased to any other depot or station on the line of its

road. Every such ticket entitles the holder thereof to ride on its passenger cars to the station or depot of destination or any intermediate station and from any intermediate station to the depot of destination designated in the ticket at any time within 6 months thereafter.

(2) Any corporation failing ~~so~~ to provide and furnish tickets or refusing the passage which the same calls for when sold must pay to the person ~~so~~ refused the sum of $200."

Section 35. Section 69-14-215, MCA, is amended to read:

"69-14-215. Issuance of bills of lading by railroad station agents -- penalty. (1) All railway companies operating in the state which do not permit bills of lading to be issued by ~~other~~ employees other than agents shall be required to have ~~said~~ bills of lading issued by the station agent at the nearest station where a station agent is regularly maintained in the direction toward which the shipment is destined. The conductor of the train which receives the shipment at its point of origin shall deliver to the agent at the nearest station at which an agent is maintained through which ~~said~~ the shipment moves, immediately upon the arrival of the train carrying ~~said~~ the shipment at ~~said~~ the agency station, all data necessary for the issuance of a bill of lading for ~~said~~ the shipment. The

agent shall immediately issue ~~said~~ the bill of lading and shall deliver the same to the shipper or his agent or shall, within 24 hours after the receipt of ~~said~~ the data from the conductor, for shipment of 20,000 pounds or over, deposit the bill of lading in a United States post office, addressed and registered or certified to the consignor of ~~said~~ the shipment or his agent or attorney to his proper post-office address. A bill of lading for shipments of less than 20,000 pounds to may be mailed without ~~registering~~ the use of registered or certified mail.

(2) Any railway company operating in Montana violating any provisions of this section ~~shall--be~~ is guilty of a misdemeanor and liable to a fine of not less than $50 or more than $1,000."

Section 36. Section 69-14-232, MCA, is amended to read:

"69-14-232. Size and equipment of caboose. (1) Cabooses shall be at least 24 feet in length, exclusive of platforms, and shall be provided with a door in each end and with cupolas or bay windows, platforms, ~~guard---rails~~ guardrails, grabirons, and steps for the safety of persons in alighting or getting on cabooses. Cabooses shall be of metal frame construction and be sufficiently insulated to eliminate track and other related noise above 85 decibels in any octave in the speech range. Other requirements for

cabooses are as follows:

(a) The trucks shall provide riding qualities at least equal to those of freight type trucks modified with elliptical or additional coil springs or other means of equal or greater efficiency and shall have at least two four-wheel trucks with standard steel wheels or their equivalent. Draft gears shall have a minimum travel of 2 1/2 inches and a minimum capacity of 18,000 foot-pounds and shall comply with Association of American ~~Railroad~~ Railroads Standard M-901 or its equivalent.

(b) Electric lighting of at least 40 foot-candles shall be provided for direct illumination of the caboose desk, reading areas, and lavatory facilities.

(c) A spotlight shall be provided on the rear of the caboose with sufficient candlepower to illuminate the track for a distance of at least 300 feet to the rear of the caboose during the hours of darkness.

(d) The caboose marker or markers shall be either reflectorized or capable of illumination when required.

(e) Only glass of the ~~safety-glass~~ safety-glass type shall be used in partitions, doors, windows, or wind deflectors.

(f) All seats and seat backs shall conform to the safety standards ~~designed~~ designated by the United States department of transportation in its "Federal Motor Vehicle

Safety Standards", Motor Vehicle Safety Standard No. 201. All edges and protrusions on seats and seat backs shall be rounded to prevent injury to employees.

(2) Any person, corporation, or company, operating any railroad or railway in this state, violating any of the provisions of ~~[the preceding section] shall be deemed~~ this section and 69-14-233 is guilty of a misdemeanor and upon conviction thereof shall be fined not less than $500 or more than $1,000 for each offense."

Section 37. Section 69-14-252, MCA, is amended to read:

"69-14-252. Accident reports. ~~It is hereby made the duty of every~~ Every railroad company operating any line of railroad within this state, shall promptly upon the ~~occurrence, or in connection with the operation of its line within the state,~~ of any accident ~~such as is~~ mentioned in 69-14-112(2), ~~to~~ report the same to the commission. In the report shall be stated the time and place of the accident, the names of the persons killed or injured, and the value of any property destroyed."

Section 38. Section 69-14-301, MCA, is amended to read:

"69-14-301. Commission powers related to ratemaking. (1) The commission shall adopt all necessary rates, charges, and regulations to govern and regulate freight and passenger

tariffs, to correct abuses, and to prevent unjust discrimination and intimidation in the rates of freight and passenger tariffs on the different railroads in this state and to make the same effective by enforcing the penalties prescribed in ~~Chapter 37, Laws of 1907~~ this chapter.

(2) The commission shall fairly and justly classify and subdivide all freight and merchandise of whatever character that may be transported over railroads of this state into such general and special classes or subdivisions as may be considered necessary or expedient.

(3) The commission may fix different rates for different railroads and for different lines under the same management or for different parts of the same lines if found necessary to do justice and may make rates for express companies different from the rates fixed for railroads. The commission shall also fix and establish for all or any connecting lines of railroad in this state reasonable joint rates of freight charges for the various classes of freight and cars that may pass over two or more lines of such railroads.

(4) The commission shall make and establish reasonable rates for the transportation of freight within the state and shall prescribe rates, tolls, and charges for all other ~~service~~ services performed by any railroad subject hereto."

Section 39. Section 69-14-303, MCA, is amended to

read:

"69-14-303. Prohibition on rate discrimination. (1) If any railroad subject hereto, directly or indirectly or by any special rate, rebate, drawback, or other device, charges, demands, or receives from any person, firm, or corporation a greater or ~~less~~ lesser compensation for any service rendered or to be rendered in the transportation of property subject to the provisions of ~~Chapter 37, Laws of 1907~~, this chapter than that fixed by the commission for such service, such railroad ~~is guilty of intimidation and~~ shall forfeit and pay to the state not less than $500 or more than $2,000 for each offense. Nothing in this subsection prevents any railroad or railroad corporation from giving excursion rates to or from any point within or without the state.

(2) If any railroad subject to ~~Chapter 37, Laws of 1907~~, this chapter or its agents or officers hereafter collects, charges, demands, or receives from any person, company, firm, or corporation a greater rate, charge, or compensation than that fixed and established by the commission for the transportation of freight, passengers, or cars or for the use of any car on the line of its railroad or any line operated by it or for receiving, forwarding, handling, or storing any such freight car or for any other service performed or to be performed by it, such railroad

and its agents and officers are guilty of intimidation and shall forfeit and pay to the state a sum not less than $500 or more than $2,000.

~~(3) It is hereby declared to be unlawful for any ticket selling agent so authorized and licensed as provided in 69-14-211, or for any common carrier subject to the provisions of 69-14-211 through 69-14-214 to charge, demand, collect, or receive from or to sell, barter, transfer, or assign to any person, firm, company, corporation, or association any ticket of any class whatever entitling the purchaser or holder thereof to transportation by the common carrier issuing such ticket for a greater or less sum or price than is charged, demanded, collected, or received by such ticket selling agent or common carrier subject to the provisions of 69-14-211 through 69-14-214 for a similar ticket of the same class. Any person, ticket selling agent, or common carrier subject to the provisions of 69-14-211 through 69-14-214 who shall violate the provisions of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be fined in the sum not exceeding $1,000 for each offense.~~

~~(4)~~(3) (a) It is unlawful for any railroad subject to this title to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like ~~kind~~ kinds of property for a shorter distance than for

a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as through rate than the aggregate of the intermediate rates; provided, that upon application to the commission and after investigation, such carrier, in special cases, may be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property, and the commission may from time to time prescribe the extent to which such designated carriers may be relieved from the operation of the foregoing provisions of this subsection, but in exercising the authority conferred upon it in this proviso, the commission shall not permit the establishment of any charge to or from the more distant point that is not reasonably compensatory for the service performed.

(b) Violations of this subsection (3) shall be punished in accordance with 69-14-805."

Section 40. Section 69-14-309, MCA, is amended to read:

"69-14-309. Posting of rate schedule. Each railroad affected by the provisions of ~~chapter 37, laws of 1907,~~ this chapter shall display, in a conspicuous place in each of its stations in this state, a schedule printed in plain, legible, English type showing all classifications and rates

fixed and established by the commission."

Section 41. Section 69-14-322, MCA, is amended to read:

"69-14-322. Actions to recover excess charges. (1) Any sum or amount of money paid to any railroad by any person or shipper in excess of the rates, tolls, or charges fixed and established by the commission for such service may be recovered from such railroad by the person or shipper in any action instituted and maintained in the district court of the county in which such payment was made. No contract or agreement, written or otherwise, between such person or shipper and the railroad shall be admissible in evidence for the purpose of showing a waiver of the right given by this section. No voluntary payment by any person or shipper of any such excess or overcharge to any railroad shall be or be held to be a waiver on the part of such person or ~~shippers~~ shipper of the right to sue and recover for such excess or overcharge as provided for in this section. If, upon the trial of such action, it shall satisfactorily appear to the court or jury that such overcharge was willfully made, the person or shipper bringing the action shall be awarded damages in treble the amount of such excess or overcharge, together with the costs and expenses of such action, including a reasonable attorney's fee, to be taxed and collected as other costs in the action.

(2) ~~(a)~~ Such An action ~~shall~~ under this section must be brought within 3 years from the date ~~of such payment~~ THE CAUSE OF ACTION ACCRUES.

~~(b) All actions at law by carriers subject to this section for recovery of their charges or any part thereof shall be begun within 3 years from the time the cause of action accrues and not after.~~"

Section 42. Section 69-14-402, MCA, is amended to read:

"69-14-402. Lawsuit to determine reasonableness of commission actions. (1) Any railroad, shipper, or other interested person may bring an action in the district court of the county where the principal office or place of business of such railroad, shipper, or other interested person is situated, or in any county where any classification, rate, toll, charge, ~~regulation~~ rule, or order of the commission is applicable, against the commission as defendant, to determine whether or not any such classification, rate, toll, charge, ~~regulation~~ rule, or order made, fixed, or established by the commission under the provisions of ~~Chapter 37, Laws of 1907,~~ this chapter is just and reasonable.

(2) Until the final decision in any such action, the classification, rate, toll, charge, ~~regulation~~ rule, or order of the commission affecting rates or charges shall be

deemed considered to be final and conclusive except as herein otherwise provided. In any action, hearing, or proceeding in any court, the classifications, rates, tolls, charges, regulations rules, and orders made, fixed, and established by said the commission shall prima facie be deemed to be considered just, reasonable, and proper.

(3) [a] All costs and expenses incurred in the hearing, trial, or appeal of any action brought under this section by a railroad shall be fixed and assessed as may seem just and equitable to the court.

[b] Costs shall be awarded in all actions brought under the provisions of this section by a shipper or other interested person as in other civil causes."

Section 43. Section 69-14-501, MCA, is amended to read:

"69-14-501. Organization of railroad corporation. (1) The persons named in the articles of incorporation or a majority of them shall be authorized to order books to be opened for receiving subscriptions to the capital stock of the railroad corporation, at such times and at such places as they may deem expedient, after having given at least 30 days' notice in a newspaper of general circulation in this state of the time and place of opening books.

(2) As soon as 5% on of the capital stock shall be is subscribed, they may give like notice for the stockholders

to meet at such time and place within the state as they may designate for the purpose of electing five or more directors who shall continue in office until the time fixed for the annual election, which time shall be within 6 months from the date when such directors were elected, and until their successors are elected and qualified. At the time and place appointed, directors shall be elected in the manner provided in [15-485] 35-1-506. The candidates for director receiving the highest number of votes shall be declared elected. The persons named in such articles or such of them as may be present shall be inspectors of such election and shall certify what persons are elected directors and appoint specify the time and place for holding their first meeting."

Section 44. Section 69-14-511, MCA, is amended to read:

"69-14-511. Authorization to consolidate railroad corporations. (1) Any two or more railroad corporations whose respective lines, not being parallel or competing lines, are wholly or partly within this state, whether chartered by or organized under the laws of the state or territory of Montana or of the United States or of any other state or territory, when their respective lines of road or any branch thereof so connect within this state that they may operate together as one property, may consolidate their capital stock, franchises, and property and thereby become

one corporation to be known by any name adopted by them, which may be that of one of them, upon such terms and conditions as may be agreed upon by them, in the manner provided in 69-14-512.

(2) Before any railroad corporation organized under the laws of any other state or territory or of the United States shall be permitted to avail itself of the benefits of this section and 69-14-512, such corporation shall file with the secretary of state a true copy of its charter or articles of incorporation."

Section 45. Section 69-14-512, MCA, is amended to read:

"69-14-512. Procedure to consolidate. (1) Articles of agreement shall be entered into by and between such corporations, under their respective corporate seals and the signatures of their respective presidents and secretaries, containing the terms and conditions of such consolidation and the mode of carrying the same into effect, including:

(a) the name of the corporation resulting from such consolidation;

(b) the amount of its capital stock and the number and amount of shares thereof;

(c) the manner of retiring the shares of the capital stock of the corporations so consolidated or of converting the same into or exchanging it them for the capital stock of

such resultant corporation;

(d) the number which shall constitute the board of directors of such corporation and what officers it shall have;

(e) the persons who shall constitute the first board of directors and officers thereof, their term terms of office, and the manner in which their successors shall be elected, which shall be according to the provisions of ~~[35-405]~~ 69-14-501; and

(f) such other matters as ~~may be deemed~~ are considered necessary to perfect such consolidation and as may be agreed upon.

(2) Such articles of agreement shall, before the same shall be effectual, be assented to, approved, or ratified by the stockholders of the respective corporations so consolidated at a regular meeting of such stockholders or a special meeting thereof, duly called and held, by resolution adopted by a vote in favor thereof, in person or by proxy, of the holders of at least ~~three-fifths~~ a majority in amount of the outstanding capital stock of such corporations, respectively.

(3) A duplicate of such articles of agreement, together with a copy of the resolutions so adopted by the stockholders of such corporations assenting to, approving, or ratifying the same, certified under the corporate seal

and the signature of the secretary and verified by a sworn statement of the president and secretary of the ~~corporation~~ corporations stating that such resolution was duly adopted by the vote in favor thereof of the holders of ~~three-fifths~~ a majority in amount of the outstanding capital stock of the ~~corporation~~ corporations at a meeting of the stockholders thereof, duly held, shall be recorded in the office of the secretary of state. It shall be the duty of the secretary to record the same upon presentation for that purpose. Upon the filing thereof for record, as aforesaid, the corporation formed by such consolidation shall be a corporation by the corporate name mentioned in such articles of agreement and as such shall be perpetual and shall succeed to and have, own, possess, exercise, and enjoy all the powers, rights, franchises, privileges, immunities, and property of every name and nature possessed by the corporations so consolidated or to which they were entitled at the time of such consolidation and shall be entitled to have, own, hold, exercise, possess, and enjoy all the powers, rights, franchises, privileges, and immunities which may at any time appertain to railroad corporations under the general laws of this state. All railroads and branches thereof of the consolidated corporation are subject to taxation and to regulation and control by the laws of this state, in all respects the same as if constructed by corporations

organized under the laws of this state."

Section 46. Section 69-14-513, MCA, is amended to read:

"69-14-513. Lease or purchase of other railroads. (1) Any railroad corporation ~~whose line is wholly or partly within this state or reaches the boundary line thereof~~, whether chartered by or organized under the laws of the state or territory of Montana, the United States, or any other state or territory, may lease or purchase the whole or any part of the railroad or line of railroad of any railroad corporation, constructed or unconstructed, together with all the rights, powers, immunities, privileges, franchises, and all other property or appurtenances thereto~~, provided, the railroad or line of railroad so leased or purchased is continuous of or connected with its own line and not a parallel or competing line. Any such railroad corporation, whether chartered by or organized under the laws of the state or territory of Montana, the United States, or any other state or territory, may take, purchase, hold, settle and dispose of or guarantee the payment of the capital stock, bonds, and securities of any other railroad corporation whose line of railroad within this state is continuous of or connects with its own line~~. The railroad company of any other state of the United States which purchases or leases a railroad or any part thereof in this

state:

(a) shall possess and may exercise and enjoy, as to the control, management, and operation of the road, all the rights, powers, privileges, and franchises possessed by railroad corporations organized under the laws of this state, including the exercise of the power of eminent domain; and

(b) shall establish and maintain an office or offices in this state at some point or points on its line at which legal process and notice may be served, as upon railroad corporations of this state.

(2) Any railroad company may sell or lease the whole or any part of its railroad or branches within this state, constructed or to be constructed, together with all property and rights, privileges, and franchises pertaining thereto, to any railroad company organized or existing pursuant to the laws of the United States, this state, or any other state or territory of the United States.

(3) All roads or branches thereof in this state, whether purchased or leased, shall be subject to taxation and to regulation and control by the laws of this state, in all respects the same as if constructed by corporations organized under the laws of this state.

~~(2)~~(4) Before any such lease or purchase shall be ~~effectual~~ effective, it shall be assented to or approved or

ratified by the stockholders of each corporation by a vote in favor thereof, at a general or special meeting of such stockholders, by the holders of ~~three-fifths~~ a majority in amount of all the outstanding capital stock of the company."

Section 47. Section 69-14-514, MCA, is amended to read:

"69-14-514. Interrailroad ~~agreements---and~~ business arrangements and out-of-state operations. (1) Any railroad company ~~now--or-hereafter~~ incorporated pursuant to the laws of this state, the United States, or any state or territory of the United States, may at any time, by means of subscription to the capital stock of any other railroad company or by the purchase of its stock or bonds or by guaranteeing its bonds or otherwise, aid such company in the construction of its railroad within or without this state and may take, purchase, hold, sell, and dispose of or guarantee the payment of the capital, stock, bonds, and securities of any other railroad corporation whose line of railroad within this state is continuous of or connects with its own line.

(2) Any company owning or operating a railroad within this state may:

(a) extend the same into any other state or territory;

(b) build, buy, lease, or consolidate with any railroad or railroads in such other state or territory or

~~with any other railroad in this state;~~

(c) operate the same; and

(d) own such real estate and other property in such other state or territory as may be necessary or convenient in the operation of such road.

~~(3) Any railroad company may sell or lease the whole or any part of its railroad or branches within this state, constructed or to be constructed, together with all property and rights, privileges, and franchises pertaining thereto, to any railroad company organized or existing pursuant to the laws of the United States, this state, or any other state or territory of the United States.~~

~~(4) Any railroad company incorporated or existing under the laws of the United States or any state or territory of the United States may extend, construct, maintain, and operate its railroad or any portion or branch thereof into and through this state and may build branches from any point or such extension to any place or places within this state. The railroad company of any other state or territory of the United States which shall so purchase or lease a railroad or any part thereof in this state or shall extend or construct its road or any portion or branch thereof in this state shall possess and may exercise and enjoy as to the control, management, and operation of the road and as to the location, construction, and operation of any extension or branch thereof all the rights, powers, privileges, and franchises possessed by railroad corporations organized under the laws of this state, including the exercise of the power of eminent domain.~~

~~(5)~~ (3) Such purchase, sale, consolidation with, or lease may be made or such aid furnished upon such terms or conditions as may be agreed upon by the directors or trustees of the respective companies, but the same shall be approved or ratified by persons holding or representing a majority in amount of the capital stock of each of such companies, respectively, at any annual stockholders' meeting or at a special meeting of the stockholders called for that purpose or by approval in writing of a majority in interest of the stockholders of each company respectively.

~~(6)~~ (4) Nothing in the foregoing provisions shall be held or construed as curtailing the right of this state or the counties through which any such road or roads may be located to levy and collect taxes upon the same and upon the rolling stock thereof, in conformity with the provisions of the laws of this state upon that subject. All roads or branches thereof in this state so consolidated, with, purchased, leased, aided, or extended into the state shall be subject to taxation and to regulation and control by the laws of this state in all respects the same as if constructed by corporations organized under the laws of its

~~state.--Any-corporation-of-another-state-or-territory-or--of the--United--States,--being--the--purchaser--or--lessee-of-a railroad-within-this-state-or-extending-its-railroad-or--any portion--thereof-into-or-through-this-state,-shall-establish and-maintain-an-office-or-offices--in--this--state--at--some point--or--points--on--its--line--at-which-legal-process-and notice-may-be-served,-as-upon-railroad-corporations-of--this state.~~ Before any railroad corporation organized under the laws of any other state or territory or of the United States shall be permitted to avail itself of the benefits of this section, such corporation shall file with the secretary of state a true copy of its charter or articles of incorporation."

Section 48. Section 69-14-532, MCA, is amended to read:

"69-14-532. Authority to plan, lay out, and construct rail lines. Every railroad corporation ~~has-power-to~~ may:

(1) cause such examination and surveys to be made as may be necessary to the selection of the most advantageous route for the railroad;

(2) lay out its road, not exceeding in width 100 feet on each side of its ~~center-line~~ centerline, unless a greater width be is required for the purpose of excavation or embankment, and construct and maintain the same, with a single or double track and with such appendages and adjuncts

as may be necessary for the convenient use of the same;

(3) construct ~~their~~ its road across, along, or upon any stream of water, watercourse, roadstead, bay, navigable stream, street, avenue, or highway or across any railway, canal, ditch, or flume which the route of its road intersects, crosses, or runs along, in such manner as to afford security for life and property; but the corporation shall restore the stream or watercourse, road, street, avenue, highway, railroad, canal, ditch, or flume thus intersected to its former state of usefulness, as near as ~~may---be~~ possible, or so that the railroad shall not unnecessarily impair its usefulness or injure its franchise;

(4) erect and maintain all necessary and convenient buildings, stations, depots, fixtures, and machinery for the accommodation and use of ~~their~~ its passengers, freight, and business;

(5) change the line of its road, in whole or in part, whenever a majority of the directors so determine, as is provided in 69-14-534; but no such change ~~must~~ may vary the general route of such road, as contemplated in its articles of incorporation."

Section 49. Section 69-14-536, MCA, is amended to read:

"69-14-536. Extension of rail lines into Montana. (1) Any railroad corporation chartered by or organized under the

laws of the United States or of any state or territory whose ~~line of railroad shall reach or intersect the boundary line of this state at any point~~ may extend, constructs, maintain, and operate its railroad into and through this state from ~~any such point or points~~ to any place ~~or places~~ within the state and may build branches from any point on such extension or continuation of any such extension or branch. Before making such extension into the state or building any such branch road or any such continuation, ~~such~~ the corporation shall, by resolution of its board of directors, to be entered in the records of its proceedings, designate the general route of such proposed extension, branch, or continuation, ~~in the manner provided in [15-108 and 15-109],~~ and file a copy of such record, certified by the president and secretary, in the office of the secretary of state, who shall record the same when presented for record. Thereupon such corporations shall have all the rights, powers, privileges, immunities, and franchises to make, maintain, and operate such extension and build, maintain, and operate such branch or continuation, including the right of eminent domain, which it would have had if it had been incorporated for such purposes under the general laws of ~~the state or territory~~ of Montana. Any corporation of another state or of the United States extending its railroad or any portion thereof into or through this state:

(a) shall establish and maintain an office or offices in this state at some point or points on its line at which legal process and notice may be served, as upon railroad corporations of this state; and

(b) is subject to taxation and regulation and control by the laws of this state, in all respects the same as if the line were constructed by corporations organized under the laws of this state.

(2) Before any railroad corporation organized under the laws of any other state or territory or of the United States shall be permitted to avail itself of the benefits of this section, such corporation shall file with the secretary of state a true copy of its charter or articles of incorporation."

Section 50. Section 69-14-606, MCA, is amended to read:

"69-14-606. Role of public service commission with respect to crossings. (1) The commission ~~is hereby given full power to~~ may enforce the orders of any board of county commissioners for the construction of railroad crossings and ~~is likewise given full power to~~ may pass upon the reasonableness of any such order ~~to~~ and modify, change, or annul the same.

(2) Whenever any railroad crossing has been ordered by the county commissioners, as herein provided, the railroad

company may, within 30 days after the service of such order, serve upon the commission a notice stating why such ~~the~~ order is considered unreasonable or unjust and request ~~requesting~~ that the commission hold a hearing for the purpose of determining whether or not the construction of such crossing should reasonably be required. The commission shall thereupon institute a hearing for ~~said~~ this purpose, and all interested parties shall be given reasonable notice and an opportunity to be heard. ~~Said~~ The commission may, after such hearing, either affirm, modify, or annul such order."

Section 51. Section 69-14-713, MCA, is amended to read:

"69-14-713. Violation of provisions dealing with injury to livestock. (1) Except as otherwise provided, every person who violates any of the provisions of 69-14-701 through 69-14-712 relating to livestock killed or injured by railroads is guilty of a misdemeanor.

(2) Any person violating any of the provisions of ~~69-14-709~~, 69-14-711, or 69-14-712 shall, upon conviction thereof, be punished by a fine of not less than $10 or more than $300 or by imprisonment in the county jail for a period of not less than 10 days or more than 60 days or by both such fine and imprisonment."

Section 52. Section 69-14-802, MCA, is amended to

read:

"69-14-802. Structural details of platform. Each platform shall be not less than 12 feet wide and 32 feet long, extending 4 feet and 6 inches, or such height as shall be determined by the commission, above the rails of the track, with suitable approaches to and from such platform to admit of the driving of ~~loaded teams~~ vehicles thereon."

Section 53. Section 69-14-1001, MCA, is amended to read:

"69-14-1001. Protection of employees affected by closure of station or other facility. (1) Whenever any railroad, as defined in ~~69-14-101(2)(b)~~ 69-14-101, is granted the authority to close a railroad station or facility by order of the commission, ~~it shall be incumbent~~ on the commission to shall require employee protection. Before the commission may approve closure of a station or facility, it shall require from the railroad an agreement to protect employees affected by the closure by providing jobs equal in nature and pay to the job held by the employee for the 6 months prior to such the closure. The equal job and pay agreement must be in effect for a period of 4 years or, in the alternative, the number of years the employee has been employed prior to closure, whichever is shorter.

(2) Notwithstanding any other provisions of this section, an agreement pertaining to protection of the

interests of affected employees may be entered into between the railroad and duly authorized representatives of the employees."

Section 54. Section 69-14-1003, MCA, is amended to read:

"69-14-1003. Railroad personnel as law officers. Every conductor, engineer, or other person in charge of the operation of cars, trains, or locomotives upon any railroad is, while so engaged or employed, hereby constituted a public executive officer of the class of peace officers and of the grade of a constable in each county wherein his train, cars, or locomotives may from time to time happen to be and ~~is-hereby-given~~ has the same authority as other peace officers to, with or without a warrant, arrest and prosecute persons ~~violating-any-provision-of-sections-1--and--2,--page-150,-laws-of-1899~~ trespassing or illegally obtaining passage on the railroad. The ~~persons~~ railroad personnel mentioned herein shall not be entitled to receive fees for any arrest or prosecution which may be made or prosecuted under ~~sections-1-and-2,-page-150,-laws-of-1899~~ this section. None of the ~~persons~~ railroad personnel herein named shall be authorized to hold said office or exercise its functions unless at the time ~~he-shall-be-a-citizen~~ they are citizens of the United States and ~~shall~~ have been ~~a-citizen~~ citizens of this state for at least 1 year next preceding ~~his~~ their

exercising the functions thereof."

Section 55. Repealer. (1) Sections 8-127 and 72-220, R.C.M. 1947, are repealed.

(2) Sections 69-14-136 and 69-14-403, MCA, are repealed.

Section 56. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-